United Nations CRC/C/ZAF/2

Convention on the Rights of the Child

Distr.: General
17 March 2015

Original: English
English, French and Spanish only

Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 44 of the Convention

Second periodic reports of States parties due in 2002

South Africa*

[Date received: 26 November 2014]

* The present document is being issued without formal editing.

GE.15-05119 (E)

1505119

Please recycle

Contents

		Paragraphs	*Page*
	Tables and figures		5
	Abbreviations and acronyms		7
	Executive summary	1–22	9
	Introduction	23–33	12
	Treaty-specific report	34–364	14
Part 1.	General measures of implementation	34–62	14
	1.1. Ratification of the Convention, other international and regional instruments and Optional Protocols	34	14
	1.2. Measures taken to bring laws and practice into conformity with the Convention	35–61	14
	1.3. Regulation of business activities impacting on children	62	18
Part 2.	Definition of the child	63–87	18
	2.1. The age of majority	63–64	18
	2.2. The age of marriage	65–70	19
	2.3. Age of contracting, litigating and other acts linked to legal capacity	71	19
	2.4. Age of sexual consent	72–75	19
	2.5. Ages impacting on customary law	76–77	20
	2.6. Alcohol and gambling	78	20
	2.7. Minimum child labour age	79–80	21
	2.8. Minimum age for recruitment into the defence force and gun ownership	81	21
	2.9. Minimum age for consenting to medical treatment and health care	82–84	21
	2.10. Age of criminal capacity and sentencing	85–87	21
Part 3.	General principles	88–122	22
	3.1. Non-discrimination	88–112	22
	3.2. The best interests of the child	113–117	25
	3.3. The right to life, survival and development	118–119	26
	3.4. Respect for the views of the child	120–122	26
Part 4.	Civil rights and freedoms	123–164	27
	4.1. Birth registration, name and nationality and preservation of identity	123–126	27
	4.2. The right to freedom of expression and seeking, receiving and imparting information	127–132	28
	4 3. Freedom of thought, conscience and religion	133	29
	4.4. Freedom of association and peaceful assembly	134–135	29
	4.5. Protection of privacy and protection of the image	136–141	29
	4.6. Access to information and protection from harmful material	142–147	30
	4.7. The right not to be subjected to torture or other cruel, inhuman or degrading punishment	148–156	31
	4.8. Measures to promote physical and psychological recovery and social reintegration of child victims	157–164	32

Part 5.	Family environment and alternative care	165–215	32
	5.1. Family environment and parental guidance consistent with the child's capacities	165–170	32
	5.2. Parents' common responsibilities, assistance to parents and provision of child-care services	171–174	33
	5.3. Separation from parents	175	34
	5.4. Family reunification	176–178	34
	5.5. Recovery of maintenance for the child	179–182	34
	5.6. Children deprived of a family environment	183–194	35
	5.7. Periodic review of placement	195–197	37
	5.8. National and intercountry adoption	198–203	37
	5.9. Illicit transfer and non-return	204	38
	5.10. Abuse and neglect, including physical and psychological recovery	205–215	38
Part 6.	Disability, basic health and welfare	216–296	40
	6.1. Children with disabilities	216–221	40
	6.2. Child survival and development	222–228	42
	6.3. Health and health services, in particular primary health care	229–235	43
	6.4. Addressing communicable and non-communicable diseases and promoting well-being	236–239	44
	6.5. Efforts to address the most prevalent health challenges – HIV/AIDS and TB	240–250	45
	6.6. Reproductive health rights of adolescents and measures to promote a healthy lifestyle	251–252	46
	6.7. Measures to prohibit and eliminate all forms of harmful traditional practices	253–259	47
	6.8. Measures to protect children from substance abuse	260–266	58
	6.9. Protecting children with incarcerated parents and children living in prison with their mothers	267–269	49
	6.10. Environmental health	270–276	49
	6.11. Social security and child-care services and facilities	276–283	51
	6.12. Child-care services and facilities	284–287	51
	6.13. Standard of living measures	288–295	52
Part 7.	Education, leisure and cultural activities	296–321	53
	7.1. The right to education, including vocational training and guidance	296–307	53
	7.2. The aims of education, with reference to quality of education and civic education	308–312	55
	7.3. Human rights and civic education	313	56
	7.4. Cultural and linguistic rights of children	314–318	57
	7.5. Rest, play, leisure, recreation and cultural and artistic activities	319–321	58

Part 8.	Special protection measures	322–363	58
	8.1. Children seeking refugee protection, unaccompanied asylum-seeking children, and others	322–325	58
	8.2. Children in armed conflict	326–327	59
	8.3. Children under exploitation, including physical and psychological recovery and social reintegration	328	59
	8.4. Child labour	329–334	59
	8.5. Use of children in illicit production and trafficking of drugs	335–336	60
	8.6. Sexual exploitation and sexual abuse	337–343	60
	8.7. Sale, trafficking and abduction of children	344–348	61
	8.8. Children in street situations	349–350	62
	8.9. Minority groups	351	62
	8.10. Children in conflict with the law, victims and witnesses	352–363	62
Annex I	Statistical information		65
Annex II	Supplementary information		90
Annex IiI	Summary responses to concluding observations and recommendations		108
Annex IV	Key legal and policy developments since 1998		118

Tables and figures

Tables: Treaty-specific report

Table 1: Departmental budgets for 2001/02 and 2012/13
Table 2: Expenditure on social grants
Table 3: Expenditure on health care (not disaggregated for children)
Table 4: Expenditure on early childhood development
Table 5: Expenditure on basic education
Table 6: Expenditure on child protection
Table 7: Training provided to judicial, law enforcement and related personnel
Table 8: Training provided to other personnel
Table 9: Child population disaggregated by gender and race
Table 10: Number of registered civil marriages of children by age and gender
Table 11: Number of children's deaths due to selected causes of death, by age (2008)
Table 12: Number of children's deaths due to selected causes of death, by gender (2008)
Table 13: Number of children's deaths due to selected causes of death, by province (2008)
Table 14: Child and youth organisations or associations
Table 15: Number of children heard under judicial and administrative proceedings
Table 16: Children's Court cases opened under the Children's Act
Table 17: Number of births registered by year of occurrence (2003 and 2010)
Table 18: Registration for births 2010–2011 and 2011–2012
Table 19: Birth registrations by province (2010/2011)
Table 20: Birth registrations by province (2011/2012)
Table 21: Proportion of schools per province equipped with ICTs
Table 22: Incidents of inhuman or degrading treatment or punishment and responses to them
Table 23: Incidents of corporal punishment in schools by province (2011)
Table 24: Access to support services
Table 25: Data on child-care institutions
Table 26: Number of children placed in foster care
Table 27: Number of child adoptions per adoption–type
Table 28: International family reunifications
Table 29: Abduction of children to and from South Africa
Table 30: Number of reported cases of neglect and ill-treatment of children
Table 31: Number of child abuse cases per province per financial year
Table 32: Number of reported cases leading to court sanctions for perpetrators, per province
Table 33: Number of Care Dependency Grants by province as at 30 April 2012
Table 34: Number of primary learners with disabilities in ordinary schools, by province
Table 35: Number of primary learners with disabilities in special schools, by province
Table 36: Rates of infant and child mortality
Table 37: Proportion of children with low birth weight, wasting and stunting

Table 38: Maternal and infant health
Table 39: Maternal mortality rate and leading causes of death
Table 40: Proportion of households without access to adequate sanitation, by province and year
Table 41: Proportion of households without access to safe drinking water, by province and year
Table 42: Number of maternal orphans by province and calendar year
Table 43: Number of maternal orphans by age and calendar year
Table 44: Number of maternal orphans by gender and calendar year
Table 45: Number of OVC benefiting from home- and community-based care services, by province and financial year
Table 46: Number of HIV-positive children receiving antiretroviral treatment, by financial year
Table 47: Proportion of child-headed households per province (2003, 2008 and 2011)
Table 48: Total number of child-headed households
Table 49: Adolescent health issues
Table 50: Drug and substance abuse in children
Table 51: Children with incarcerated parents (2012)
Table 52: Literacy rates
Table 53: Primary school enrolment
Table 54: Percentage children 7-15 years attending educational institutions, by gender (2002–2011)
Table 55: School retention
Table 56: Teaching capacity
Table 57: Number of children in registered ECD sites and funding thereof, per financial year
Table 58: Number of children in ECD sites subsidised per province, by financial year
Table 59: Proportion of schools with sports facilities, by province
Table 60: Number and type of reported child abuse cases per financial year
Table 61: Number of child trafficking incidents that resulted in sanctions, by province and financial year
Table 62: Administration of juvenile justice (data available only from April 2011)
Table 63: Number of children 14–17 years in correctional facilities (2002–2012)
Table 64: Number of women in correctional facilities (2002–2012)

Figures: Treaty-specific report

Figure 1: Distribution of children across income quintiles
Figure 2: Percentage of children per income quintile
Figure 3: Child population disaggregated by geotype
Figure 4: Households without access to hygienic sanitation facilities, by race and year
Figure 5: Households without access to safe drinking water, by race and year

Abbreviations and acronyms

CDG	Care Dependency Grant
CHH	Child-headed Household
COP	Child Online Protection
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSG	Child Support Grant
DAC	Department of Arts and Culture
DBE	Department of Basic Education
DCS	Department of Correctional Services
DHA	Department of Home Affairs
DHET	Department of Higher Education and Training
DOH	Department of Health
DOJCD	Department of Justice and Constitutional Development
DOSR	Department of Sport and Recreation
DPME	Department of Performance, Monitoring and Evaluation
DWCPD	Department of Women, Children and People with Disabilities
EC	Eastern Cape Province
ECD	Early Childhood Development
ECE	Early Childhood Education
FCG	Foster Care Grant
FET	Further Education and Training
FPB	Film and Publication Board
GDP	Gross Domestic Product
GET	General Education and Training
ICTs	Information and Communication Technologies
KZN	KwaZulu-Natal Province
LiEP	Language in Education Policy
M&E	Monitoring and Evaluation
MINMEC	Minister and Members of Executive Council
NEEDU	National Education Evaluation and Development Unit
NELDS	National Early Learning and Development Standards
NPA	National Prosecuting Authority
NPAC	National Programme of Action for Children

NPACSC	National Programme of Action Steering Committee
NPR	National Population Register
OPAC	Optional Protocol on the involvement of children in armed conflict
OPSC	Optional Protocol on the sale of children, child prostitution and child pornography
PDOU	Planning and Delivery Oversight Unit
PEIP	Prevention and Early Intervention Programmes
PMTCT	Prevention of Mother-to-child Transmission
SAHRC	South African Human Rights Commission
SALGA	South African Local Government Association
SALRC	South African Law Reform Commission
SAPS	South African Police Service
UNICEF	United Nations Children's Fund

Executive summary

1. This is the State's combined second, third and fourth report on measures taken between 1998 and 2013 in furtherance of its obligations under the Convention on the Rights of the Child (CRC) and the Optional Protocols on the sale of children, child prostitution and pornography (OPSC), and on the involvement of children in armed conflict (OPAC).

Part 1: General measures of implementation

2. During the reporting period the State expanded its commitments to children through the ratification of a number of international and regional instruments; introduced legal, structural and institutional innovations; and increased its investments to realise children's rights protected under the Convention and Protocols.

3. Various legal developments, such as the passing of the Children's Act and Child Justice Act, have brought the regulatory framework in closer alignment with the CRC. The mainstreaming of children's rights as well as the coordination and oversight of the CRC's implementation have been strengthened with both the establishment of the Ministry and Department of Women, Children and People with Disabilities and the development of a revised National Plan of Action for Children. Relevant institutional budgets have increased in the reporting period, but, in recognition of their current inadequacies, are set to grow progressively the better to realise implementation. Moreover, the budgeting process requires further work to allow for more accurate determination of allocations to, and expenditure on, children's rights.

Part 2: Definition of the child

4. Several legal developments have resulted in alignment with the CRC of the age of childhood as well as protective age limits. A number of age limits at which children are permitted to engage in certain conduct have been revised by taking into account international legal requirements and children's developmental stages and capacities. These limits aim to protect children from harm brought about by early sexual activity, certain customary practices, and the use of firearms, alcohol and tobacco, and to protect their right to make decisions in matters impacting on them. While these developments have increased the legislative protection given to children, their implementation remains a challenge due to insufficient resources, a variety of legal inconsistencies, and societal, community and family attitudes and practices.

Part 3: General principles

5. In the course of the last decade the State has given priority to remedying the poor living conditions and inequities experienced by the majority of children marginalised by apartheid policies. It has sought to achieve this through, inter alia, pro-poor laws and budgets relating to education, health, child protection and social security. As a result, there has been a reduction in child poverty and inequality as well as an improvement in the living conditions of black, rural, and girl children and children living in poverty. Despite this progress, the structural inequities of apartheid have locked South Africa into an ongoing battle against inequality. After two decades of pro-poor development, South Africa remains one of the most unequal countries in the world, with children bearing the brunt more heavily than others. The State has responded with the development of a new National Development Plan: Vision 2030. Its primary goal is the reduction of poverty and inequality

by 2030, and it provides a blueprint for nation-wide action by all departments to address the underlying drivers of inequality. This plan is supported by a host of existing policies and programmes aimed at affirmative, corrective measures to reach the most vulnerable and excluded communities; by strategically-targeted infrastructure development plans; by improved coordination mechanisms; and by a government-wide evidence-based planning and evaluation framework.

6. Children's best interests and participation in the development of the emerging protective framework are paramount. The Children's Act and other laws oblige all organs of state and caregivers to make decisions in consultation with children and by taking into account their best interests. Historically, there have been challenges in the realisation of these principles, and work remains to be done to ensure their meaningful integration into all political, commercial, community and familial decisions and processes.

Part 4: Civil rights and freedoms

7. The State recognises the right to an identity and nationality as foundational, and has implemented legal and institutional measures to improve access to the administrative vehicles for securing these rights, namely, birth registration and identity documents. As a result, there is considerable improvement in the number of children whose births are registered. In addition, children born in South Africa to refugee parents are entitled to a unique birth certificate, and the majority of South Africans receive identity documents from the age of 16 years.

8. The rights of children to receive information and express their views are constitutionally and legislatively protected, but infrastructural inequalities, insufficient resources and resilient community and family attitudes create challenges for the effective realisation of these rights. Through laws and institutions that prohibit child pornography and regulate access to age-inappropriate media, the right of access to information has been balanced against children's right to protection from harm. The media, judiciary and business institutions are also obliged to protect children's privacy and other rights, such as the right to a healthy environment.

9. The protection of children against torture, cruel and inhuman punishment, including corporal punishment, is secured through constitutional and legislative prohibition of these practices. Corporal punishment is prohibited in all public institutions, including schools, correctional facilities and residential care facilities. The prohibition does not extend to the household at this stage. The law also encourages the adoption of positive disciplinary and parenting practices. Despite the legal clarity on the matter, there are serious challenges to effective implementation, and the State recognises that efforts to eliminate violent disciplinary practices in schools require urgent attention.

Part 5: Family environment and alternative care

10. The State has taken measures to promote and support the ability of parents and families to be at the vanguard of child well-being and development in South Africa. The measures aim to ensure that parents and caregivers are equipped with the skills and resources necessary to fulfil their responsibilities; to regulate and fund the provision of partial care facilities to provide a safe and nurturing environment for the temporary care of children of working parents; to avoid, wherever possible, the removal of children from their families; where such removal is contemplated, to ensure all decisions are subject to judicial scrutiny, and that children are placed in regulated safe and nurturing alternative care

settings for the shortest time possible: and to identify and protect children living without adult caregivers in child-headed households.

11. South Africa has strengthened its framework for the protection of children from abuse and neglect. Current measures are regulated by a network of laws such as the Children's Act, Sexual Offences Act and Domestic Violence Act. They provide for the delivery of prevention and early intervention services in households at risk, the establishment of child protection registers of persons not suitable to work with children, the removal of children from harmful settings, and the provision of a package of health, social and psychosocial services where abuse or neglect has occurred.

12. The legal framework is thus characterised by a combination of prevention, early intervention and remedial measures to secure the child's family environment and protection from abuse and neglect. The statutory emphasis on preventative interventions is a deliberate attempt to address the neglect of these services in previous years. Overcoming historical imbalances will take time; thus there are still insufficient preventative parenting support programmes in place. However, the matter is receiving priority attention in the current policy and planning cycle. In addition, whilst coordination, budgetary and human-resource constraints (especially the severe lack of social workers) pose challenges to the realisation of legislative objectives, they are nevertheless receiving corrective attention.

Part 6: Disability, basic health and welfare

13. South Africa protects the rights of children with disabilities through a range of laws and policies. They provide a comprehensive package of care and support, including social assistance, free health care, and access to education. At present, the early childhood development (ECD) and sexual and reproductive health rights of this vulnerable group require policy attention, while the implementation of existing programmes is hampered by insufficient and, at times, inefficient, use of resources.

14. After a protracted struggle, South Africa is making progress in reducing infant, child and maternal mortality rates, particularly as a result of its strengthened HIV and AIDS programme of action. However, there is still significant work to be done to achieve the Millennium Development Goals. The State has taken robust action to meet this challenge, including improving its information management systems and health care system, with the emphasis being placed on preventative and primary health care services for pregnant women, newborns, children and women in general.

15. Whilst HIV and AIDS remain South Africa's most prevalent health challenge, significant gains have been made as a result of a strong Prevention of Mother-to-child Transmission (PMTCT) programme as well as early diagnosis and treatment regimens that conform to the UNAIDS and WHO recommendations. Current challenges include ensuring early initiation of ART and effective implementation of prophylactic programmes for victims of sexual abuse.

16. The State has recognised the heightened vulnerability of adolescents and youth to the impact of HIV and AIDS, poverty and other social and economic factors. It has thus strengthened its youth and adolescent health framework. This framework is multi-sectoral and aims to provide not only treatment but also preventative interventions targeting the social and economic drivers of vulnerability. Programming has focused on teenage pregnancies, substance abuse, and HIV and AIDS.

17. Children's living conditions have improved as a result of pro-poor environmental health, social security, child-care and nutrition policies and programmes; however, children's levels of enjoyment of the associated benefits are marked by racial and geographical inequities. Pockets of poor service delivery — especially amongst, inter alia,

rural children, children in informal urban areas, and black children — are receiving priority attention.

Part 7: Education, leisure and cultural activities

18. The availability and accessibility of basic education have received significant attention. As a result of legal, institutional and budgetary reforms, substantially more children, especially those who were historically marginalised, are able to go to school. Access for children with disabilities and the quality of infrastructure are two particularly resilient challenges that are currently being addressed by legal reform and improved management interventions.

19. While access has improved, the quality of education is a significant challenge. This is receiving priority attention on multiple fronts, including curriculum reform, the development of leadership and teaching skills, the provision of learner support, and strengthened monitoring and evaluation systems.

20. Education policies and the curriculum promote respect for diversity in schools and surrounding communities. This extends to an implicit recognition of the educational value of teaching and learning in children's home language, especially in the foundational years. Despite a clear policy on the matter, a number of resource and pedagogical barriers limit the efficacy of the language of learning and teaching policy.

21. The State has recently introduced a robust pro-poor school sport policy. Beyond the school setting, access to local recreational and cultural amenities depends in large measure on the priorities, finances and management capacity of local municipalities, factors which vary significantly across the country.

Part 8: Special protection measures

22. In compliance with international and national obligations, specialised laws have been developed for the protection of especially vulnerable groups. These groups include refugee children and their caregivers, children in armed conflict, exploited children, child labourers, and children involved with the criminal legal system. The laws provide a sound protective framework in compliance with CRC and Optional Protocols, but their implementation and monitoring is hampered at times by resource insufficiencies, resilient prejudices and attitudes, insufficient coordination, and insufficient data collection and information management systems.

Introduction

23. The Government of South Africa is pleased to present to the Committee on the Rights of the Child its combined second, third and fourth report in accordance with article 44 of the Convention on the Rights of the Child (CRC). South Africa ratified the CRC on 16 June 1995, submitted its first report in 1998 and received the Committee's concluding observations in 2000. The present report takes cognisance of the latter and addresses them directly where relevant.

24. In addition, in 2003 South Africa ratified the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC), and, in 2009, the Optional Protocol on the involvement of children in armed conflict (OPAC). Initial reporting thereto is contained within the body of this combined periodic report and the additional first report

to the Committee on the OPSC, which is submitted simultaneously with this combined report.

25. The purpose of the report is to outline the steps South Africa took between 1998 and April 2013[1] to meets its obligations under the CRC and Optional Protocols above. In particular, the report demonstrates that important progress was made in realigning the legislative framework to advance the rights of children. The report also recognises that certain areas, such as policy implementation, require further attention.

26. The report's content and structure are informed by the Articles of the Convention, the Committee's reporting guidelines and General Comments related to specific topics. This submission to the Committee consists of three sections. Section I is the Common Core Document; Section II directs the Committee to the relevant sections of the report responding to recommendations in the Committee's concluding observations; and Section III is South Africa's combined periodic report.

27. The Government of South Africa acknowledges with appreciation the technical support received from UNICEF South Africa in the preparation of this submission, which draws primarily on information provided by governmental departments and obtained from official documentation. Further input was elicited through provincial consultations in July and August 2012 with stakeholders in government and civil society.

28. Given that an extended period is under review, the report's body focuses on high-level developments only, with supplementary and statistical information provided in annexes. Three such developments are highlighted below.

29. A key achievement was the establishment in 2009 of the Department of Women, Children and People with Disabilities (DWCPD) and, in particular, its Children's Rights and Responsibilities Programme, which is implemented by Offices on the Right of the Child sited in the premiership of all nine provinces. Through the DWCPD, its Programme, the work of several line departments, a National Plan of Action for Children, and a monitoring and evaluation strategy, the Government of South Africa now promotes, coordinates and monitors the mainstreaming of children's rights in all its policies and programmes.

30. Furthermore, measured on the basis of a poverty-line equivalent to $2 per day, child poverty in South Africa decreased between 2003 and 2010 by 13%. This reduction is largely attributable to progressive child-centred policies, most notably the expansion of social assistance programmes.

31. South Africa made substantial progress in preventing mother-to-child transmission of HIV. According to the Department of Health and UNAIDS, pregnant HIV-positive women receiving antiretrovirals increased from an estimated 32,500 in 2004 to 250,100 in 2010. This has led to a significant decline in new infections among children. In addition, progress has been made in implementing the national PMTCT programme, as a result of which mother-to-child transmission of HIV has decreased to 2.7% at six weeks after birth.

32. In spite of these and other advances, and notwithstanding South Africa's unrelenting commitment to realising the rights and well-being of children, significant challenges remain. In response to them, greater investments are being made in health, education and the protection of vulnerable children. One of the underlying causes of the challenges faced (discussed in detail in the relevant sections of this report) is ongoing structural inequality.

[1] The statistical data provided in the report covers the period until June 2012, whereas the narrative includes legal and related developments (as well as input received through submissions on the draft report) that extend until April 2013.

South Africa continues to be one of the most inequitable countries in the world, with children experiencing inequality more intensely than adults. This impacts on the enjoyment by historically marginalised children of their rights and access to services. The Government's recent National Development Plan: Vision 2030 provides a blueprint for unified action by all role-players over the next 18 years for the reduction of poverty and inequality. It aims to reduce the Gini inequality coefficient from 0.7 (in 2012) to 0.6 by the year 2030. In addition, a National Planning Commission and Department of Performance, Monitoring and Evaluation have been established to inform and oversee the implementation of the national plan and realisation of its core goals. These developments signify a paradigm shift in the Government's approach to equity-focused policy development and implementation.

33. In South Africa civil society plays a vital role in implementing the Convention. Along with the South African Human Rights Commission, non-governmental organisations (NGOs) have indicated that they will report separately to the Committee on the implementation of the CRC as seen from their perspective. The Government looks forward to their positive contribution in the dialogue with the Committee.

Treaty-specific report

Part 1: General measures of implementation

1.1. Ratification of the Convention, other international and regional instruments and Optional Protocols

34. Since its last report South Africa ratified the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC) in 2003; the Optional Protocol on the involvement of children in armed conflict (OPAC) in 2009; the African Charter on the Rights and Welfare of the Child (ACRW) in 2000; and the Worst Forms of Child Labour Convention in 2000. In 2010 South Africa was a signatory to the ILO's Roadmap for Achieving the Elimination of the Worst Forms of Child Labour by 2016. As per the Committee's concluding observation No. 11, the International Covenant on Economic, Social and Cultural Rights has not yet been ratified, but this is in progress. (See the Common Core Document for a comprehensive list of documents that have been signed and/or ratified by the State.)

1.2. Measures taken to bring laws and practice into conformity with the Convention

35. In compliance with concluding observation No. 10, the State, acting through the South African Law Reform Commission (SALRC), the legislature and judiciary, has reviewed, and where necessary, revised laws to align them more fully with the CRC, the OPSC and OPAC. The revisions are detailed later in the report, but the summary below conveys the key processes and outcomes.

36. The SALRC reviewed at least seven legal frameworks impacting on children's rights, including the child justice framework, the Child Care Act (1983), customary law, family law, and laws governing sexual offences and child trafficking. (A detailed list of reviews is contained in annex II A.)

37. The judiciary was active in reviewing and promoting compliance with the CRC and Optional Protocols. (Notable rulings are listed in annex II B.)

38. As a result of these law reforms, South Africa's legal framework is more closely harmonised with the CRC and its Optional Protocols. The following is a synopsis of the main areas of harmonisation:

(a) The Children's Act (2005) (as amended) aligns the age of a child with that stipulated by the CRC. The Act provides a comprehensive framework for the protection of children from all forms of abuse, neglect and exploitation, thereby responding to South Africa's obligations under the OPSC.

(b) Several provisions in this Act relate to concluding observation No. 10. These include outlawing and/or regulating harmful customary practices such as virginity testing and male circumcision among children younger than 16 years.

(c) The Criminal Law (Sexual Offences and Related Matters) Amendment Act (2007) (hereinafter, the Sexual Offences Act), increased the age of consent to sexual intercourse to 16, thereby equalising the situation for boys and girls.

(d) According to the Children's Act and Child Justice Act (2008), all organs of state are now expressly required to make decisions based on the best interests of the child, a principle which is also safeguarded in section 28(2) of the Constitution of South Africa.

(e) The right of children to be heard is formally recognised, inter alia, in the Children's Act and Child Justice Act.

(f) The Children's Act aligns care and protection legislation for disabled children with the CRC. Similarly, this Act and the Child Justice Act expressly require the prioritisation of action and resources for vulnerable children, including children with disabilities.

(h) The Child Justice Act introduced changes that harmonise the law more closely with article 40 of the CRC. For example, the minimum age of criminal capacity rose from 7 to 10 years, and there is a rebuttable presumption of criminal incapacity in the case of children between 10 and 14 years of age.

(i) The Defence Act (2002) aligned the law with the provisions of the OPAC when it changed the minimum age for recruitment into the National Defence Force from 17 to 18 years.

(j) The universalisation of a formal pre-primary year (Grade R) through the public school system in terms of White Paper 5 on Early Childhood Development (2001) has made one year of early childhood education available to all children.

(k) Pro-poor education policies (such as "no-fee" schools in the poorest three quintiles and fee waivers for poor learners in fee-paying schools) were introduced by the National Norms and Standards for Public School Funding (1998, as amended) and the Exemption of Parents from the Payment of School Fees regulations (1998, as amended). This has made primary and secondary education free for more children.

(l) Education White Paper 6: Special Needs Education — Building an Inclusive Education and Training System (2001) provides the legal framework for the equalisation of educational opportunities for children with disabilities and other special needs.

39. The State is developing a revised National Plan of Action for Children (NPAC) 2012–2017. This will be aligned with the national developmental agenda, and arrangements for its coordination, implementation and monitoring have been strengthened.

40. The first NPAC was developed under the leadership of the National Programme of Action for Children Steering Committee (NPASC), but the latter has been replaced with a dedicated Ministry and Department of Women, Children and People with Disabilities (DWCPD). Their mandate is to promote, coordinate and monitor the mainstreaming of the rights of women, children and people with disabilities into all national, provincial and local government policies and programmes.

41. The DWCPD has initiated the drafting of a revised NPAC that provides a holistic framework for the integrated organisation and implementation of intersectoral programmes to better the lives of children. Informed by the CRC's principles and provisions, the NPAC is linked to the Government's developmental priorities, plans and outcomes to ensure that children are strongly positioned on the national agenda. The NPAC sets clear and achievable children's rights-based goals in each national-priority development area, and requires all stakeholders to mainstream the realisation and resourcing of the targeted children's rights in their own sectoral or departmental policies, plans, programmes and budgets.

42. The DWCPD is vested with the authority to coordinate, monitor implementation, and report on the CRC, its Optional Protocols and the NPAC.

43. Through the Government Wide Monitoring and Evaluation (M&E) System, the Cabinet is responsible for translating the NPAC into national sectoral policies and programmes. Each Ministry has to ensure that the indicators and targets set out in the NPAC's monitoring and evaluation strategy are mainstreamed in his or her department. In turn, the Premiers of provinces and Mayors of municipalities are responsible for ensuring implementation of the NPAC at provincial and local levels.

44. A National Interdepartmental Committee of representatives from all government departments has been formed under the DWCPD's leadership to monitor and report on the NPAC's implementation. Provincial Steering Committees are responsible for developing Provincial Plans of Action for Children (PPAC). In the same vein, municipalities will develop Local Plans of Action for Children (LPAC) coordinated by municipal managers. This arrangement will address concluding observations Nos. 12 and 16. A number of provinces have already made progress in developing their PPACs.

45. Through the Government Wide M&E System, the DWCPD has developed an M&E strategy capable of the collection of disaggregated data covering all areas of the CRC for all children up to 18 but specifically those who are especially vulnerable. This measure responds to concluding observation No. 14.

46. The DWCPD's multi-sectoral and multi-level institutional framework for coordinating the NPAC responds to concluding observation No. 12.

47. The DCWPD's budget has doubled from R4,5-billion in 2009 to R10,1-billion in 2012/13. It should be noted that its current budget is nonetheless relatively small and that this poses certain challenges to the Department's full execution of the role envisaged for it.

48. To refer more widely to governmental budgets, implementing the CRC and its Optional Protocols is an endeavour that cuts across departments and engages them differently according to their functions. As such, different departments, including Health, Education and the DWCPD, are responsible for the different components of the CRC. These responsibilities are funded through individual budgets, budgets structured not according to the NPAC but the broader national development plan in which children's rights are integrated. Current budgeting processes therefore do not provide for child-specific budget allocations within allocations to departments, nor has the expenditure classification system been designed to gather such budgets and expenditure on children. While work remains to be done in identifying child-related expenditure at all levels of government, at this stage it is not possible to provide accurate information about it. The estimates supplied by the National Treasury should hence be understood in this context.

49. It is clear, nevertheless, from the table below that departmental budgets impacting on children's well-being have increased substantially. Overall, the budgets allocated by the National Treasury for the realisation of children's rights rose at an annual average rate of 23% from R6,1-billion in 2008/9 to R23,1-billion in 2014/15.

50. Particularly noteworthy is the growth in the budgets for education, health, and basic services and housing, areas which constitute the largest categories of state expenditure. This growth underlines the high priority South Africa attaches to children's rights, in accordance with concluding observation No. 15.

Table 1
Departmental budgets for 2001/02 and 2012/13 (SA RAND)

Department Programme Budget	*2001/2002*	*2012/13*
Education (incl. basic and higher education)	147,2 billion	207 billion
Health	34 4 billion	121 billion
Water and Sanitation	4,2 billion	32,1 billion
Social Development	31,6 billion	157,9 billion
Justice and Constitutional Development	17 billion (2008)	196,6 billion
Department WCPD	4,5 billion (2008)	10,1 billion

(See annex I, tables 2–6 for more information on programme budgets.)

51. The State recognises that the allocated resources are insufficient to implement fully laws such as the Children's Act, Child Justice Act and Sexual Offences Act (2007). Systems are in place to increase budgets progressively through the National Treasury's three-year funding cycle and prioritise funding allocations for realising the rights of especially vulnerable groups. (See Parts 5–8 of the report for further discussion of the budgets applicable to these laws.)

52. To assist in the implementation of the CRC, the State receives technical and financial support from UNICEF, UNAIDS, UNFPA and the UNDP as well as international aid and development agencies such as the IDC, USAID, Save the Children and others. There is scope for growth in assistance from UN agencies in South Africa, particularly in respect of M&E and programmes targeting vulnerable groups.

53. A national human rights institution was established in the form of the South African Human Rights Commission (SAHRC). In response to concluding observation No. 13, the SAHRC has the authority to receive, investigate and resolve complaints of rights abuses from, and on behalf of, children; moreover, it has a Commissioner dedicated to attending to children's rights. The SAHRC is also authorised to investigate alleged rights abuses that affect broader communities, powers it exercises to monitor and restore enjoyment of children's rights. For example, it has conducted inquiries and produced reports on the death of infants at Mthatha hospital in the Eastern Cape; initiation practices at educational institutions; school-based violence; and the right to basic education.

54. In response to concluding observation No. 13, there has been a cumulative increase in the SAHRC's budget to R100-million in 2011. However, most of the increases were inflation-linked, and no additional resources were provided to the SAHRC specifically for children's work.

55. Other independent institutions with powers to receive complaints about human rights abuses include the Public Protector, Public Service Commission and Gender Equality Commission.

56. The DWCPD has published copies of the initial State report and concluding observations, and has, with the support of civil society, distributed it amongst governmental

departments and NGOs. It has further conducted consultations on, and raised awareness of the CRC, the ACRWC and the NPAC with national, provincial and local-level stakeholders in rural as well as urban areas. In so doing it has responded to concluding observations No. 16 and 43.

57. Further measures were taken to make the principles and provisions of the Convention and its Optional Protocols known to adults and children:

(a) Various implementing departments and NGOs engaged in advocacy, communications campaigns and training for children, families and service providers. As called for by concluding observation No. 16, the inclusion of these programmes in departmental agendas has enabled an integrated, systemic approach to awareness-raising, training and sensitization of all stakeholders, including traditional community leaders and professionals working with children. (See annex II C for a comprehensive statement of such interventions.)

(b) The Government has cooperated with civil society, children and youth in planning, monitoring and implementing the Convention and associated laws.

(c) The courts have given recognition to the CRC and related international and regional instruments. Even non-binding instruments and General Comments of UN Bodies have been referred to by the courts. According to section 39(1)(b) of the Constitution, the courts must consider international law.

58. Laws like the Children's Act and Child Justice Act were shaped through constructive engagement with a diversity of civil society stakeholders acting through structures such as the Child Care and Protection Forum, the Children's Bill Working Group, Child Justice Alliance and others.

59. Civil society plays a central role in implementing services relevant to the CRC in that registered NPOs are subsidised by various departments to fulfill their statutory commitments to children. A challenge is the limited funding available for these activities, and among the measures in place to address it is a new Policy on Financial Awards to Service Providers (2011).

60. Moreover, civil society's advocacy, awareness-raising and training interventions are important in meeting the State's obligations to ensure knowledge of the CRC and its Protocols. Government departments are often hard-pressed to fulfill these roles due to budget constraints and the pressure to prioritise expenditure on service delivery.

61. The new NPAC and its M&E strategy have been developed in a consultative process inclusive of civil society and children. The institutional arrangements that are to be established for the purpose of monitoring and implementation will likewise include representation from civil society organisations.

1.3. Regulation of business activities impacting on children

62. To ensure the rights of children, the State regulates private entities in sectors ranging from health and media to the environment. (A selection of regulatory measures is listed in annex II D.)

Part 2: Definition of the child

2.1. The age of majority

63. The Children's Act changed the age of majority from 21 to 18 years. (See annex I, table 9 and Figures 1–3 for information on the child population.)

64. The protection of children's socioeconomic and protection rights afforded specifically by section 28 of the Bill of Rights in the South African Constitution, along with other rights in the Bill of Rights and Children's Act, extends to all children as defined.

2.2. The age of marriage

65. The age at which children may lawfully marry remains largely unchanged since the last report. Under the common law, Children's Act, Marriages Act (1961) and the Recognition of Customary Marriages Act (1998), the minimum age for marriage without consent is 18.

66. The Children's Act prohibits all marriages (both civil and customary) of children below the minimum age for a valid marriage, which is 12 years for girls and 14 for boys.

67. Children under the age of 18 may marry, subject to their age, their consenting thereto, and the consent of their parents or the Minister of Home Affairs. The position is different for boys and girls depending on their age, as it is in the case of civil versus customary marriages.

68. Under the Marriages Act, girls aged 15–17 may enter a civil marriage provided they consent thereto and have the consent of their parents or legal guardian. Girls aged 12–14 may marry with the consent of the girl, her parents' or guardians' consent, and the consent of the Minister of Home Affairs. Boys aged 14 to 17 years may enter a civil marriage subject to their consent, the consent of their parents or guardians, and that of the Minister of Home Affairs.

69. In customary marriages, girls aged 12–17 years may marry if the girl, her parents and the Minister of Home Affairs or an officer in the public service authorised by the Minister consent to it. Boys aged 14–17 may conclude a customary marriage provided the boy, his parents and the Minister of Home Affairs or an officer in the public service authorised by the Minister consent to the marriage.

70. In 2008, the Department of Home Affairs (DHA) registered the marriages of 509 girls. This dropped to 289 in 2010; only 15 boys' marriages were registered in 2008 and 13 in 2010. Despite the low figures (which reflect only lawful, registered marriages), the potentially harmful effect of early marriage on children's rights to education and development is regarded with a serious concern. (See annex I, table 10 for further details of registered child marriages.)

2.3. Age of contracting, litigating and other acts linked to legal capacity

71. Upon turning 18 or getting married, a child acquires the legal capacity to contract and litigate in his or her own name. The rule is that children younger than 18 require the assistance of their parents, guardians or legal representatives to contract or litigate.

2.4. Age of sexual consent

72. Under the Sexual Offences Act, the age at which children may consent to sex is 16 years and above. However, the Act criminalises acts of consensual sexual penetration with a child aged 12 years or older but under the age of 16. By raising the legal minimum age for sexual consent for both boys and girls, and ensuring that girls are not discriminated against in this regard, the Act responds to concluding observation No. 17.

73. To protect children from sexual exploitation by adults, the Sexual Offences Act makes it an offence to have sex with a child younger than 16. While the Act draws no distinction between the age of boys and girls, it does distinguish between children younger than 12 and those between 12 and 16. The former are regarded as incapable of consenting to sex, whereas the latter are regarded as capable but not mature enough. The Act

criminalises sexual intercourse in both instances, but the nature of the crime is different. In the case of children aged 12–16, the offence is statutory rape; in that of children younger than 12, it is rape or sexual violation, and carries the possibility of a more severe sentencing.

74. While the Act criminalises sexual activity by an adult with a child below 16, it also has the effect of criminalising consensual sexual activity between children of 16–18 as well as that between a child aged 16–18 with another aged 12–16. To avoid the prosecution of all cases of sexual experimentation, the Act grants wide discretionary powers in cases of peer sexual activity and instructs as to how these should be exercised.

75. As a result of a challenge, the High Court ruled that certain sections of the Act, notably those that criminalise consenting sex between children aged 12–16 years and the definition of "sexual penetration", are inconsistent with the Constitution (*The Teddy Bear Clinic for Abused Children and RAPCAN v. The Minister of Justice and Constitutional Development and the National Director of Public Prosecutions*, 2010). The declaration of unconstitutionality remains to be confirmed by the Constitutional Court.

2.5. Ages impacting on customary law

76. Several age-related provisions in the Children's Act are relevant to concluding observation No. 10 and the recommendation that the State outlaw customary laws which do not comply with the Convention. Section 12 of the Act limits the age at which girls and boys may participate in customary practices. It prohibits virginity testing and male circumcision in children younger than 16. In the case of boys under that age, they may be circumcised for religious or medical reasons. In either situation, however, all children regardless of their age have the right to refuse to be subjected to these customs. In addition, section 12(2) prohibits the arrangement of marriages or engagement of children below the minimum age for a valid marriage.

77. Despite intensive consultations with traditional leaders and communities in the development of these provisions, provincial consultations reported widespread disregard of them. Many under-age boys are circumcised, and girls under the age of 16 years are subjected to virginity testing. There was also a general consensus that the provisions for child marriages require further review. Section 12(2) of the Children's Act prohibits the arrangement of marriages or engagement of children below the lawful minimum age of marriage, but in the Recognition of Customary Marriages Act, as indicated above, there is no lower age limit, so long as the parents of the child concerned provide consent. This is problematic as these two pieces of legislation appear to be in conflict with each other. South Africa is a diverse and multicultural society. Different communities follow different systems of customary law, and the age at which a person is considered old enough to marry, undergo initiation, or take on certain responsibilities within his or her family structure or community may differ substantially. While it is recognised that society is diverse and multicultural, it is the case that South Africa advocates a child-rights regime consistent with the Constitution; it can then be so that particular cultural practices are at variance with this regime. (Refer to Part 6.7 which further reports on measures to address harmful traditional practices.)

2.6. Alcohol and gambling

78. The Liquor Act (2003) and National Gambling Act (2004) prohibit the sale of alcohol to anyone under the age of 18 and prohibit children from gambling. There are, however, challenges in implementing these laws, and South Africa faces high levels of under-age drinking. (Refer to Part 6.8 which reports on steps to protect children from substance abuse.)

2.7. Minimum child labour age

79. Since the last report, protections to children younger than 15 years against child labour under the Basic Conditions of Employment Act (1997) were supplemented by revised Regulations (Government Gazette Notice No. 7, 15 January 2010) providing protection for children aged 15–18 against harmful or hazardous employment. (Refer to Part 8.4 for further information on special protection measures against child labour.) Children may not be employed to sell or supply alcohol, nor employed in the South African Police Service (The Liquor Act (2003) and Department of Safety and Security Regulations to the Police Service Act (1964)).

80. While the law is clear about minimum-labour ages, consultations in provinces like Mpumalanga, Free State and Northern Cape indicate that, in the case of children working on farms, they are disregarded due to low levels of knowledge and an insufficiency of implementation resources such as labour inspectors.

2.8. Minimum age for recruitment into the defence force and gun ownership

81. The Defence Act (2002) changed the minimum age for National Defence Force recruitment from 17 to 18, thus aligning the law with the OPAC. The age of application for firearms increased from 16 to 21 in terms of the Firearms Control Act (2000).

2.9. Minimum age for consenting to medical treatment and health care

82. The Children's Act reduced the age of consent to medical treatment to 12, provided the child has sufficient maturity and mental capacity to understand the implications. Children of 12 and older may access condoms and contraceptives, subject in the latter case to the provision of medical advice and examination. The provision has introduced a legal inconsistency. Whilst children as young as the age of 12 years may access contraception without parental consent, they may not consent to sexual activity until they are 16 years.

83. The 12-year age limit does not apply to terminations of pregnancy. Read with the Children's Act, the Choice on Termination of Pregnancy Act (1996) grants all girls regardless of age the right to obtain a termination of pregnancy without parental consent. However, the High Court ruled that a child must be able to provide her informed consent; if not, no termination may take place (*Christian Lawyers Association v. Minister of Health and Others* (Reproductive Health Alliance as Amicus Curiae) 2005 (1) SA 509 (T)).

84. Children of 12 and younger may consent to HIV tests if counselling is provided and they are mature enough to grasp the implications. Children in this age group may consent to disclosure of their HIV status.

2.10. Age of criminal capacity and sentencing

85. The Child Justice Act changed several age-provisions to increase protection to children in the criminal justice system, so aligning the law more closely with the CRC. The Act raises the age of criminal capacity from 7 to 10 and provides for a rebuttable presumption of criminal incapacity between the ages of 10 and 14. This means that children under 10 may not be arrested or prosecuted; those aged 10–14 may be arrested and prosecuted, but the prosecutor must prove to the court that the child had criminal capacity when he or she committed the crime.

86. Although this does not entirely address concluding observation No. 17 that the relevant age be raised to 12, the Act contemplates the future review of the current age limit. It provides for the Government to make recommendations to Parliament within five years of the Act's implementation (i.e., by 1 April 2015), based on the numbers of children aged 10–12 in conflict with the law, their offences, and diversions or sentences. The Government

is in the process of developing a brief for the research necessary to make its informed recommendations by the due date.

87. The Act prohibits imprisonment of children under 14 and requires that other forms of detention be a last resort only; moreover, children over 14 may be imprisoned only for serious offences. Those aged 15 and younger may not be imprisoned for more than 25 years, and no child may be imprisoned for life (*Centre for Child Law v. Minister for Justice and Constitutional Development and Others*, 2009 (11) BCLR 1105 (CC)).

Part 3: General principles

3.1. Non-discrimination

88. In concluding observation No. 9 the Committee expressed concern about socioeconomic disparities that militate against the CRC's implementation, and in concluding observation No. 18 noted that insufficient measures had been adopted to address them, particularly measures to ensure implementation of the principle of non-discrimination through the provision of equitable access to rights and services for certain vulnerable groups of children. It was requested, then, that the State undertake special measures to this effect.

89. Since 1998 there have been considerable improvements in vulnerable children's access to rights, services and benefits, as well as reductions in their poverty levels and inequality (Figures 1 and 2 in annex I provide information on the proportion of children in each income quintile).

90. Between 2003 and 2009, the number and proportion of children in poverty decreased from 73% to 60% (Statistics South Africa, 2010). Likewise, the number of children experiencing hunger and malnutrition declined, from 34.7% in 2002 to 18.6% in 2010, and between 2002 and 2009 the number of 7–14-year-olds attending school increased from 96% to 99%; the number of children with disabilities attending school rose by more than 20% between 2002 and 2010, and 56% of children at school do not pay school fees (Statistics South Africa, 2011 and 2012). In addition, the percentage of children living in formal housing increased by 6% between 2002 and 2010; children with access to piped water increased from 54.7% to 61.8% in this period; access to sanitation increased by 10% to 49.5% in 2010; and access to electricity increased between 2002 and 2010 from 70% to 83% (Statistics South Africa, 2011).

91. These improvements were brought about by the numerous progressive social and economic policies introduced by the State, notably its social security policy and, in particular, the Child Support Grant (CSG), which has impacted significantly on the well-being of vulnerable children. A recent study finds that the CSG promotes early childhood development, reduces stunting, improves school retention and outcomes, increases access to health care, lowers the risk of child labour (especially for girls), and contributes to lowering risky adolescent behaviour by the most vulnerable children; moreover, the CSG has reduced poverty and thereby assisted long-term development by "helping to break the intergenerational transmission of poverty" (DSD, SASSA and UNICEF, 2012).

92. Nevertheless, South Africa continues to experience high levels of child inequality and poverty, poor educational outcomes, and a high (albeit decreasing) infant mortality rate, especially among marginalised and vulnerable children. 60% of children live in households earning less than R575 per person per month, and racial disparities persist, with 67% of black children living below this line compared to 2% of white children (Statistics South Africa, 2011).

93. The State has responded by strengthening its policies, laws and programmes that (1) prohibit discrimination against all children and (2) require proactive targeted actions giving priority to the allocation of resources, the development of infrastructure, and the delivery of services for especially vulnerable groups of children.

94. Laws, policies and programmes prohibiting and preventing discrimination include the following:

(a) The Promotion of Equality and Prevention of Unfair Discrimination Act (2000) prohibits unfair discrimination and establishes special equality courts to improve access to justice for remote regions.

(b) The Children's Act asserts that non-discrimination must guide all legislation related to children.

(c) The Schools Act (1996) and other laws prohibit discrimination in education.

(d) The National Health Act (2003) and Mental Health Care Act (2002) prohibit discrimination.

(e) The State undertook advocacy interventions aimed at changing harmful attitudes and beliefs.

(f) Training for service providers working with children includes education on non-discrimination.

95. Measures requiring proactive targeting and prioritisation of vulnerable groups of children have been developed within the national pro-equity developmental agenda. For the past decade, redressing past inequities has been a national priority and, alongside poverty-reduction, is the main goal of the National Development Plan: Vision 2030. Through a programme of action for achieving these goals, the State has prioritised children by establishing the DWCDP to drive children's equity in the national development framework. Against this backdrop, and in reply to concluding observation No. 18, key measures to target and prioritise vulnerable groups of children are reported hereunder.

96. Black children living in poverty: Pro-poor policies and resource allocations that benefit black children living in poverty include the CSG (discussed in Part 6), education funding policies and the no-fee school policy (Part 7), the free health care policy (Part 6), the housing subsidy (Part 6), free basic water and electricity policies (Part 6), the school feeding programme (Part 7), the early childhood education subsidy (Parts 6 and 7), and the prioritisation in terms of the Children's Act of child protection services to families unable to secure children's basic needs. Given the poverty-focused targeting mechanisms for access to these benefits and the high levels of poverty among black children, these programmes serve to benefit more children that are black than others.

97. Children in rural areas: Many children facing high poverty-levels also live in rural areas marked by underdevelopment and poor infrastructure, factors which contribute to a legacy of poor access to services as well as services of poorer quality. Thus, while take-up of certain services like the CSG and no-fee schools is high in rural provinces, the accessibility and quality of services such as health care and education have been persistently lower. Among the measures taken to address rural barriers to equitable enjoyment of children's rights are: (a) the Department of Rural Development's Comprehensive Rural Development Strategy, which targets infrastructure and services; (b) the DHA's rural campaigns (discussed in Part 4); the Department of Health's (DOH) re-engineering of the Primary Health Care system and expanded community health services (Part 6); and the Department of Basic Education's (DBE) education and infrastructure improvement strategy (Part 7).

98. Children with disabilities: Policies and programmes include (a) requirements under the Children's Act that all interventions take into account the specific needs of children with disabilities (discussed in Part 6); (b) health policies providing free health care and assistive devices (Part 6); (c) the Care Dependency Grant (CDG) for children with severe disabilities (Part 6); and (d) an inclusive education policy (Parts 6 and 7). The State recognises there are gaps in the current policy framework and implementation thereof, as discussed in more detail in Parts 6 and 7 of the report.

99. Child labourers: Protection for this group was strengthened through (a) additional protection against hazardous employment; (b) the recognition that children involved in work may be in need of statutory care and protection; and (c) development of the multi-sectoral Child Labour Programme of Action. (See Part 8.4.)

100. Girl children: Policies and programmes include, inter alia, (a) measures to promote gender equality and prevent gender-based violence (discussed in Part 6.7); (b) measures to reduce the impact of onerous domestic responsibilities on girls (discussed in Part 8); (c) policies that address the gender-based drivers of educational exclusion (Parts 7 and 8); and (d) the National Strategic Plan for HIV and AIDS (2012), which aims to address the causes of girls' heightened vulnerability to HIV and AIDS (Part 6).

101. Children working and/or living on the streets: Through the Children's Act and the National Strategy for Children Living and Working on the Streets, the State seeks to address the factors driving children from their homes and to provide care and protection where such children are found (discussed in Part 8.8).

102. Children in conflict with the law: They are now protected by the Child Justice Act (see Part 8).

103. Refugee children: Their rights are protected by the South African Refugees Act (1998), and the DHA has partnered with local and international agencies to ensure children can access these rights (see Part 8.10).

104. Young children and children affected by HIV and AIDS: In addition to addressing the vulnerable groups identified in the Committee's concluding comments, the State has adopted special measures for other groups, including very young children and those affected by HIV and AIDS. (See Parts 5–8.)

105. Set against the measures outlined above are common challenges impacting on the ability of vulnerable children to access their rights, services and benefits. The challenges are reported hereunder.

106. Provincial and district-level variations frustrate access for the most marginalised children. These variations concern the allocation of resources for implementing national policies and programmes as well as the quality of services. The challenge is especially acute at municipal level and in rural areas that coincide with the infrastructurally-backlogged former homelands.

107. Insufficient coordination between different levels of government and between departments has impeded the implementation of a number of the targeted pro-vulnerable policies and programmes.

108. Inadequate data collection systems have compromised the routine gathering of disaggregated, credible and relevant information necessary for effectively monitoring progress and planning responses to remaining gaps in services for especially vulnerable children.

109. In addition to prioritising infrastructure development, the State responded to these challenges by means of interventions to align and equalise the commitments, funding and outcomes for vulnerable children at provincial and local levels. This has included

developing coordination mechanisms, national norms and standards, and an integrated M&E framework.

110. Infrastructure development has been centralised within the Presidential Infrastructure Committee to address backlogs driving inequity in under-serviced areas. The plans entail improved capacitation of local implementers in rural areas and municipalities most severely affected by historical backlogs.

111. Coordination challenges have been addressed by the creation of the DWCPD (discussed in Part 1). In addition, further structures have been established in the domains of health, education, child justice and protection to achieve better coordination in planning, budgeting, implementation and monitoring. Other interventions include national norms and standards to secure comparable quality of services across provinces and districts. At a more fundamental level, however, the National Planning Commission has taken steps to strengthen the thematic coordination and focus of future policies within the framework of the National Development Plan. To this end, in January 2013, it hosted, together with the University of Cape Town, the Carnegie Conference which provided a platform for deep and meaningful debate about policy choices in all relevant sectors that are best suited to tackling poverty and inequality, and which should thus drive the realisation of the NDP goals and objectives.

112. Government-wide monitoring has been centralised in the Department of Performance, Monitoring and Evaluation. Along with other departments, those responsible for children are obliged to develop nationally aligned plans and M&E systems; as such, it is required that children's data be collected at all governmental levels to measure progress against national equity priorities. The latter falls within the DWCPD's mandate, and in consequence data collection will be better coordinated.

3.2. The best interests of the child

113. The Children's Act, Child Justice Act and section 28 (2) of the Constitution compel all State actors to ensure that all their decisions and actions take into account and prioritise the best interests of the child. The Children's Act gives detailed guidance on factors to consider in determining these interests.

114. The Children's Act and Child Justice Act institutionalise the requirement in General Comment No. 11 that when considering the best interests of the child all decision-makers take into account the cultural, linguistic and religious rights of indigenous children. The measures in the Acts to promote the best interests of the child are culturally sensitive and promotive of customary practices. Key elements of the Child Justice Act are rooted in customary dispute-resolution and disciplinary processes, while the community-based interventions in the Children's Act are similarly based on communal care for children. Moreover, these Acts acknowledge traditional leaders and family councils as legitimate role-players in child protection and justice.

115. Numerous measures were taken by departments to promote knowledge, understanding and application of the best interests' principle. (See annex II E for a list of examples of the promotion of various elements of the best interests of the child.)

116. In a number of cases the judiciary has used the best-interests standard to decide in favour of children. For example, in *Matiso v. Road Accident Fund* 2001 (3) SA 1142 (T), the court recognised a customary adoption for the purpose of recognising a dependent's claim, this on the grounds that it was in the best interests of the child. (See Parts 1, 4 and 7 for additional cases.)

117. There have been challenges to maintaining the best interests of the child, the most notable instance of which is the apparent conflict emerging in recent strikes between the

labour rights of educators and health professionals and children's rights to education, health care, survival and development. The DBE responded with measures such as the Strike Management Plan in an attempt to balance the constitutionally protected right to strike with children's right to education and having their best interests taken into account. The Department also plans to implement the ILO Declaration on Fundamental Principles and Rights at Work, which provides for the exclusion of certain categories of workers to ensure the population's basic safety and the state's essential functioning. The DOH has taken such measures as establishing a call-centre during strikes to keep the public informed about which facilities are operational.

3.3. The right to life, survival and development

118. The State has taken steps to ensure the right to life, survival and development for every child. These include: (a) improved monitoring of child births and deaths through transformation of the vital registration system (discussed in Part 6); (b) improved special protection measures for the most vulnerable children (Part 8); (c) an extensive review of the legal framework for the care and protection of all children, emphasising prevention and early intervention services (Part 5); (d) enhanced provision for early childhood care and development in recognition of its profound impact on the child's long-term developmental potential (Parts 6 and 7); (e) greater focus on children in health policies and legislation, as well as on the health of pregnant women to ensure their well-being and improve outcomes for the unborn child (Part 6); (f) expanded social security (Part 6); and (g) the promotion of the right to survival and development in the Child Justice Act, which emphasises diversion of children from the criminal justice system (Part 8; see also para. 125).

119. More specifically the State undertook measures to (a) guarantee that capital punishment is not imposed on children (the death sentence was abolished in 1995); (b) register deaths and extrajudicial killings of children (discussed in Part 4); and (c) prevent suicide and eradicate infanticide (discussed in Part 6.4, para. 205).

3.4. Respect for the views of the child

120. The State is committed to the principle of respecting the views of the child, and the Children's Act expressly recognises the right of children to participate in matters concerning them. This right is promoted and protected through a dual obligation on all decision-makers to listen to children's views on issues at hand and give these due consideration. Further to this, laws have been enacted to give effect to the obligation to take children's views into account in education, health, family and judicial settings. (Table 15 in annex I provides information on children heard under judicial and administrative proceedings.)

121. Departments implemented practical initiatives to facilitate realisation of the prescribed obligations (see annex II E). Through these laws and programmes, the State, as requested in concluding observation No. 19, has encouraged respect for the views of the child in schools, families and the care and judicial systems as well as promoted public awareness of children's participatory rights. Concluding observation No. 19 recommends that teachers be trained to enable learners to express their views at provincial and local level, and the Committee's attention is drawn to the DBE's response. Through the Department's curriculum policy, learners are both educated about their participatory rights and equipped with the writing and verbal tools necessary to exercise them; the matter is therefore integrated into the training of language-subject teachers.

122. The Constitution guarantees that children's views be taken into account by making legal representation mandatory for all children in criminal cases and in civil cases where substantial injustice would otherwise result. The courts have encouraged, facilitated and clarified how children's views are to be heard in legal proceedings. The High Court

judgments of *Soller NO v. G* 2003 (5) SA 430 (T) and *Legal Aid Board v. R* 2009 (2) SA 262(D) recognised the right of children to have separate lawyers in civil cases to present their views in a court. The Constitutional Court has expressed its interest in hearing children's views in the cases of *Christian Education SA v. Minister of Education of the Government of South Africa* 2000 (4) SA 757 (CC) and *Minister for Education v. Pillay* 2008 (1) SA 474 (CC).

Part 4: Civil rights and freedoms

4.1. Birth registration, name and nationality and preservation of identity

123. The State has taken measures to protect and promote children's rights to birth registration, a name and nationality, and the preservation of identity. At the start of the decade these rights were frustrated for many children, especially those affected by HIV and AIDS and those living in poverty and in rural areas.

124. The DHA took a number of steps to address barriers to access, and as a result the rate of early birth registration has increased significantly in the last ten years. In 2003, 68% of births were registered within one year, but by 2010 this increased to 83% and jumped a further 4% to 87% by 2011. The number of births registered within the prescribed thirty days increased to reach 45% in 2010, and has increased further to 51% in 2011. The numbers of very late birth registrations dropped by more than 50% between 2010 and 2011. (Refer to annex I, tables 17–20 for detailed statistics).

125. These improvements have come about as a result of the DHA's Turnaround Strategy. Implemented in 2007, it introduced a range of reforms and interventions.

(a) Organisational changes included (i) restructuring the organisation in alignment with its key mandates; (ii) a revised Human Resource strategy to equalise the historically uneven capacity and quality of services across provinces; and (iii) an integrated staff training and development programme to build competencies essential to service delivery.

(b) The DHA implemented a multifaceted strategy entailing outreach services and advocacy and communication campaigns to address historically low levels of knowledge and access to services in especially rural, low-literate, under-resourced communities. Interventions include: (i) infrastructural interventions and service delivery innovations to expand the quality and availability of DHA services in marginalised communities, including the integration of birth registration at 248 health facilities; (ii) the National Population Registration Campaign; (iii) multi-sectoral stakeholder forums and other community-based outreach initiatives; (iv) the Minister of Home Affairs announced that from March 2013 the DHA will stop issuing abridged birth certificates and will issue only unabridged ones. These will be more secure and also contain information about both parents, a measure that will protect children against claims by illegal parents and help to ensure fathers' rights to their children. (See annex II F for a comprehensive list of interventions.)

126. The DHA also made legislative changes to strengthen the legal framework for vulnerable children, including refugee children born in South Africa who have experienced difficulties in accessing birth certificates. The Births and Deaths Registration Act (1992) was amended in 2010 in alignment with the Children's Act to provide mechanisms for registering the births of orphans, abandoned children and adopted children; the revision also introduced a process for the provision of a birth certificate to children born in South Africa to asylum-seekers or refugees. The South African Citizenship Act (2005) was amended in 2010 to clarify issues related to citizenship by birth, descent and naturalisation. In addition, the Alteration of Sex Description and Sex Status Act (2003) and Children's Act allow a

child who has undergone gender reassignment to preserve his or her identity by applying to have the birth register changed.

4.2. The right to freedom of expression and seeking, receiving and imparting information

127. Policies, laws and programmes giving effect to these constitutionally protected rights include:

(a) The protection of the right to participate afforded by the Children's Act implicitly protects the rights of children to freedom of expression.

(b) The Promotion of Access to Information Act (2000) establishes procedures for gaining access to publicly- and privately-held information; the procedures are available to children as well as adults.

(c) Schoolchildren have the freedom to speak, publish material in school publications and wear culturally and religious symbolic items, dress and hairstyles. Under the South African Schools Act, school governing bodies are required to develop codes of conduct balancing the rights of other learners and educators against the individual child's right to freedom of expression, which means that dress codes and similar restrictions on expression may be permissible, depending on the relative importance of the motivation for the individual's expression or conduct. For example, in the case of *Danille Antonie v. Governing Body, The Settlers High School & Head of Western Cape Education Department* (2002 (4) SA 738 (CPD), a prohibition against a learner wearing Rastafarian dreadlocks was found to be an unlawful limitation of her freedom of expression, linked as this was with her religious beliefs.

(d) The right to freedom of expression is limited by the Promotion of Equality and Prevention of Unfair Discrimination Act. Section 10 prohibits hate speech.

(e) Section 13 of the Children's Act provides that every child has the right to access information on the prevention and treatment of ill-health; sexuality and reproduction; his or her health status; and the causes and treatment of that health status. Moreover, the Act prescribes that information provided to children must be relevant and in an accessible format, giving due consideration to the needs of children with disabilities. The DOH has implemented interventions to realise this right, including awareness-raising campaigns and training on HIV counseling and testing campaigns.

(f) The Child Justice Act and South African Police Service's National Instruction 2 /2010: Children in Conflict with the Law, require that children suspected of committing a crime receive information in plain language in their home language about the child justice system and the processes to be followed.

128. In addition to legislative protection of the right to information, various departmental communication initiatives have realised this right through the publication of child-friendly and accessible information on children's rights. (Refer to annex II G for a comprehensive statement).

129. The State has recognised and sought to address infrastructural and other challenges that have limited the enjoyment of the right to information, especially in predominantly rural areas and areas of high poverty.

130. Historical backlogs have resulted in insufficient public libraries and internet access. In 2011, 79% of schools had no library. Whilst 21% had a library, only 7% of these were stocked. In 2011, 77% of schools had no computer centres (DBE, 2011d). (See table 21 in annex I for further detail.)

131. The DBE is committed to improving library and communication technology provisioning, use and equity at schools. Its national Policy for an Equitable Provision of an

Enabling School Physical Teaching and Learning Environment (2010) and accompanying guidelines provide guidance to provinces and schools as to the minimum numbers and standards for libraries, science laboratory facilities, and computer rooms. In terms of the policy, the DBE has committed to prioritising delivery of these support spaces in schools in the poorest quintiles. The Department has also developed National Guidelines for School Library and Information Services (DBE, 2012) for provincial departments of education and schools. In addition, its White Paper on e-Education (2004) provides a framework for development, by the DBE, of a national framework to ensure optimal availability and use of Information and Communication Technologies (ICTs) in education. The policy is equity-focused and aims to ensure equal ICT access and competence at all schools by addressing infrastructural, cultural and capacity challenges.

132. The Department of Communications has engaged in a programme of action to increase the number of public libraries in rural communities and ensure internet access at all public libraries.

4.3. Freedom of thought, conscience and religion

133. This right is dealt with in Part 7.4 under the discussion of linguistic, cultural and religious freedom.

4.4. Freedom of association and peaceful assembly

134. Section 17 of the Constitution guarantees the rights of everyone, including children, to peaceful assembly, while section 18 guarantees the right to freedom of association.

135. The South African Schools Act (1996) empowers governing bodies of public schools to determine the school's language policy and admission criteria. While this gives them significant power to affect a community's right to freedom of association, section 5(3)(b) of the same Act provides that no school admission policy may exclude a learner on the grounds that his or her parent will not subscribe to the school's mission statement. The Act, read together with section 9(4) of the Promotion of Equality and the Prevention of Unfair Discrimination Act (2000), prohibits governing bodies from excluding children on grounds such as race. Moreover, where the right to education of a previously disadvantaged learner is in competition with the right to freedom of association, courts have been unanimous in giving preference to the former. Thus, where a learner has no alternative but to attend a public school with an exclusive language policy, the language policy will have to yield, as will the right to freedom of association.

4.5. Protection of privacy and protection of the image

136. This constitutionally protected right is promoted and protected by numerous policies and laws.

137. The privacy of a child's health status is guaranteed by the Children's Act. Section 13(1)(d) provides that every child has the right to confidentiality regarding his or her health status, as well as the health status of a parent, caregiver or family member, except when such confidentiality is not in the best interest of the child. In addition, section 133(1) prohibits the disclosure of a child's HIV status without the child's consent if the child is older than 12 years, or without the child's parent's consent where the child is younger than 12.

138. Section 8A of the South African Schools Act permits a principal to search any group of learners or their property if it is suspected the child possesses a dangerous object or illegal drugs. This power is subject, however, to the duty to consider all relevant factors, including whether such a search will be in the best interests of the child and whether there is reasonable evidence of illegal activity.

139. The Children's Act protects the privacy of girls who have undergone virginity testing. In terms of section 12(6) the results of a virginity test may not be disclosed without the consent of the child, and in terms of section 12(7) her body may not be marked as an indication of her having undergone the test.

140. In the justice system various measures protect the child's privacy and identity. The Child Justice Act prohibits the media or other persons from attending court proceedings involving a child unless they apply to the court for special permission. Likewise, under the Children's Act proceedings in Children's Courts must be held in camera. The media may not disclose the identity of children that are party to divorce proceedings (*Johncom Media Investments Limited v. M and Others* 2009 (4) SA 7 (CC)). The Code of Conduct for Broadcasting Service Licensees (2009) requires all broadcasters to be mindful of children's privacy when reporting on all matters, including court proceedings.

141. The Child Justice Act provides for discretionary protection of the privacy of children convicted of crimes through the expungement of their criminal records. The child or the child's parents may apply to court for the expungement after 5–10 years in the case of less serious crimes. This right does not extend to serious offences (namely, Schedule 3 offences such as rape or murder), even when committed by a child.

4.6. Access to information and protection from harmful material

142. Children's right of access to information was dealt with extensively under Part 4.2 above . This section will deal with their right to be protected from material harmful to their well-being. It recognises that while the internet, cell phones and other devices provide valuable conduits facilitating access to information, they also allow for the transmission of information potentially damaging to the child's well-being.

143. The media are subject to State- and self-regulation to prevent the production and/or publication or distribution of content harmful to children. This ranges from total prohibition, as in child pornography, to restrictions on the sale and availability of publications to either all children or those below a certain age.

144. The Films and Publications Act (2004) prohibits the production, distribution or possession of child pornography. The Act is administered by the Film and Publication Board which is mandated, inter alia, to balance freedom of expression and the right to protection from exposure to harmful and inappropriate materials. (See Part 8.6 for more information.)

145. The media are also subject to the Broadcasting Code of Conduct for Broadcasting Service Licensees (2009) adjudicated by the Complaints and Compliance Committee of the Independent Communications Authority of South Africa (ICASA). The code of conduct prohibits the broadcasting of child pornography or other harmful sexual content; regulates the hours in which material harmful to children may be broadcast; and requires broadcasters to be mindful of the potentially harmful content of children's programming.

146. The Department of Communications' Children Empowerment Directorate is a party to the Child Online Protection (COP) initiative. COP is an international collaborative network for action to promote the online protection of children by providing guidance on safe online behaviour.

147. The DBE's Guidelines on e-safety make provision for the development, by school committees, of an Acceptable Use Policy for ICT and information to protect children against access to harmful information.

4.7. The right not to be subjected to torture or other cruel, inhuman or degrading punishment

148. South Africa ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1998 and it entered into effect in 1999. However, South Africa has not harmonised the CAT with its domestic legislation. It was only recently that legislation defining and criminalising torture was placed before Parliament. Furthermore, South Africa has signed, but is yet to ratify, the Optional Protocol to the Convention against Torture (OPCAT).

149. Section 12 of the Constitution guarantees the right of all people, including children, to be free from all forms of violence from either public or private sources, not to be tortured in any way, and not to be treated or punished in a cruel, inhuman or degrading way. Section 28(1)(d) specifically protects all children from maltreatment, neglect, abuse or degradation. This guarantee is given effect through a number of laws which outlaw corporal punishment in the public domain, as well as cruel, inhuman or degrading punishment.

150. As declared in the previous State report, corporal punishment was abolished in all areas of public life, in the justice system and in schools as a form of sentencing and discipline. The legislative framework has since been strengthened by the Children's Act (2005), which prohibits corporal punishment of children in conflict with the law that are detained. In response to concluding observation No. 28, the Act prohibits corporal punishment in all alternative care settings, including foster care settings and early childhood development (ECD) programmes, and promotes the use of positive discipline. This prohibition was upheld by the Constitutional Court in *Christian Education South Africa v. Minister of Education* 2000 (4) SA 757 (CC).

151. The prohibition in the South African Schools Act of cruel and degrading treatment was strengthened with the prohibition, under the Regulations to Prohibit Initiation Practices in Schools (2002), of initiation practices in schools.

152. The South African Schools Act also obliges all schools, acting through their school governing bodies, to develop a code of conduct that promotes positive discipline. In 2000, the former Department of Education (DOE) published guidelines for drafting the prescribed code of conduct.

153. Despite policies prohibiting and regulating corporal punishment, implementation remains a challenge in that the prevalence of corporal punishment in schools has increased. In 2011, 17,2% of learners, compared to 16,8% in 2009, experienced corporal punishment at schools. The increases have been the largest in the Eastern Cape (where it rose from 25,5% to 30,2%) and Limpopo (rising from 14,6% to 19,3%) (Statistics South Africa, 2012). (See annex I, tables 22 and 23 for further information.)

154. The DBE has taken measures to reduce the increasing levels of corporal punishment in schools. School management teams and school governing bodies in nine high-priority areas have received training on positive discipline and classroom management, and plans are in development for provinces to support "hot-spot" schools evincing a clear need for positive-discipline interventions. However, these efforts are hampered by parents' and communities' overall acceptance that corporal punishment is an effective way to discipline a child. As such, work is done with governing bodies and parents to educate them on the negative impacts.

155. Through numerous advocacy and awareness-raising campaigns, the Department of Social Development (DSD) has promoted the use of positive discipline rather than corporal punishment. For example, the 2012 Child Protection Week was dedicated to positive discipline, and positive-discipline components are incorporated in the Department's parenting and community capacitation programmes.

156. Although corporal punishment is outlawed in public life, it is permitted in the family. The common law position is that parents have the right to reasonably chastise their children. The DSD is revising the Children's Act, and in the process will revisit the issue of banning corporal punishment in the home.

4.8. Measures to promote physical and psychological recovery and social reintegration of child victims

157. In addition to the prohibition against corporal punishment in the penal setting, measures have been taken to protect children from other forms of cruel, inhuman or degrading treatment while in custody. These address concluding observation No. 21.

158. The State recognises that entry into the criminal justice system is counterproductive in most instances and a primary cause of children's recidivism. This is one of the reasons behind the enactment of the Child Justice Act, which aims, inter alia, to minimise the child's contact with the criminal justice system, divert as many children as possible from it, and maximise the rehabilitative potential of the chosen sentencing option.

159. The Child Justice Act recognises the right of the child not to be detained except as a measure of last resort and only for the shortest appropriate period of time. However, where it is unavoidable, section 28 of the Act makes provision for the protection of children in detention in police custody. This section requires that the child be detained separately from adults and girls from boys, permitted visits from parents and other persons, and have access to appropriate health care as well as adequate food and water.

160. In terms of the Act, children may also, in certain circumstances, be placed in a child and youth care centre or in prison. However, the Act provides that only a child who is 14 years or older and alleged to have committed a very serious offence may be put in prison. As a measure of protection, such a child must be brought back every 14 days to the court that ordered the detention so that it (the court) can reconsider each time whether the placement remains necessary and appropriate. The court must enquire into the treatment of the child and the conditions under which he or she is kept, and may order an inspection or investigation if it is suspected that the child is not treated properly.

161. The Act seeks to ensure police officials comply with their obligations. Section 97(9) provides for steps against any functionary who fails to comply with any duty imposed on him or her in terms of the Act.

162. The South African Police Services National Instruction 2/2010: Children in Conflict with the Law (2010) guides the police on how they must treat child suspects in order to protect their rights, act in their best interests and promote future positive behaviour.

163. The Child Justice Act permits a court to use different forms of non-custodial sentencing to achieve the aim of rehabilitating a child in conflict with the law. These include community-based sentences, restorative justice sentences, fines, correctional supervision, suspended sentences, compulsory residence in a child and youth care centre, and imprisonment. (Refer to Part 8.10 for further information.)

164. Further information on recovery and social integration of child victims is provided in Parts 5.10 and 8.10 of the report.

Part 5: Family environment and alternative care

5.1. Family environment and parental guidance consistent with the child's capacities

165. In the policy context there is growing emphasis on the importance of families, and in line with concluding observation No. 22, a situational analysis was conducted in 2004 to

identify challenges facing families to inform the development of appropriate supportive policies and programmes. The DSD is also currently planning research into the effectiveness of social services to families as a vehicle for supporting parenting.

166. Policy and legislative developments in the review period include the following:

(a) The first and priority objective of the Children's Act's is to "promote the preservation and strengthening of families". The Act requires the Minister of Social Development to develop a comprehensive national strategy for securing the provision of prevention and early intervention programmes (PEIP) to families, parents, caregivers and children.

(b) The DSD drafted a Green Paper on Families (2011) which includes proposed measures to support and strengthen the multiple manifestations of family life in South Africa; the Paper also outlines the roles of various ministries in family-focused policy and planning. The DSD has finalised an integrated plan for services to families, an integrated parenting framework, and an M&E framework for services to families. To aid policy implementation, the DSD has established a dedicated Families Directorate within the Department.

167. Concluding observation No. 22 calls for efforts "to reduce and prevent the increasing number of child-headed households and to introduce adequate support mechanisms for existing child-headed families". National survey data for the period 2000 to 2007 reveal that the proportion of child-only households (CHHs) is relatively small and is not increasing as initially thought (see tables 47 and 48 in annex I). Furthermore, evidence suggests that many CHHs are created for a limited period only and often continue to be supported by an adult family member (Statistics South Africa, 2011).

168. The Children's Act provides special protection for children in CHHs. It stipulates that such households be officially "recognised", that they function under the supervision of a designated adult, and that they may not be excluded from State relief and assistance programmes. In 2010, a Strategy for Statutory Services for Child-Headed Households was developed to protect the rights of these children.

169. Other policies and strategies that recognise the special needs of CHHs include the HIV and AIDS and STI National Strategic Plan 2012–2016 and its predecessor (the NSP 2007–2011), the National Policy Framework for Orphans and Other Children made Vulnerable by HIV and AIDS (2005) and the accompanying National Plan of Action, all of which promote intersectoral collaboration to protect the rights of this and other vulnerable groups of children.

170. To support the implementation of these provisions, the DSD has scaled-up community services to CHHs through, amongst others, the Isibindi programme. The DSD is also training social service practitioners and developing the institutional structures necessary to formally recognise and protect CHHs.

5.2. Parents' common responsibilities, assistance to parents and provision of child-care services

171. South Africa's legislation recognises that both biological parents have common and primary responsibilities for their child. Chapter 3 of the Children's Act deals with termination, extension, suspension or restriction of parental responsibilities and rights, for mothers and fathers (married and unmarried), and makes provision for parenting plans for co-holders of parental rights and responsibilities, in addition to other protection measures in the event of rights violations. The rights of unmarried fathers came under review in the case of *S v. J and Another* 2011 (3) SA 126 (SCA) 8 (Centre for Child Law, 2011). The court

found that the biological father's automatic parental responsibilities and rights should be recognised and exercised subject to a consideration of the child's best interests.

172. While recognising that primary responsibility for child-rearing lies with the child's parents or legal guardians, legislation and case law define a role for the State in supporting parents to fulfill this primary duty, and thus puts in place provisions for the establishment of institutions, facilities and services for the care of children. These services, which are defined in the Children's Act, include facilities such as ECD centres and school after-care services to provide for the safe care of children when not with their parents or caregivers. The Act requires the registration of such facilities and compliance with minimum norms and standards for service quality and health and safety requirements. Progress in ECD registration and reach is documented in statistical annex 1 (see tables 24, 57 and 58) and further information on the provision and funding of these services is provided in Parts 7 and 8 of the report.

173. Between 2009 and 2011 the DSD reviewed prevention and early intervention services for children and families, an exercise which informed the development of draft guidelines for the design and development of PEIP.

174. An ECD Diagnostic Review commissioned in 2011 by the DPME in the Presidency highlights the need for greater emphasis on promoting good parenting and on preventive interventions for parents at risk, issues which will be addressed, inter alia, in the national ECD policy and programme of action.

5.3. Separation from parents

175. The Children's Act requires a court order for the removal of a child and emphasises that his or her best interests must be the determining factor in any decision regarding the separation of a child from the family. South African law also makes provision for children to participate in court proceedings and allows for the participation of all other interested parties. The Act respects the right of the child who is separated from her family to maintain regular contact with her parent(s) where this is in the child's best interests. In the case of *C and Others v. Department of Health and Social Development, Gauteng, and Others* 2012 (2) SA 208 (CC), the Constitutional Court held that any decision removing a child from parents must be reviewed by a court on the next court day, giving the family an opportunity to argue against the removal.

5.4. Family reunification

176. The Children's Act stresses the importance of family reunification wherever it is possible and in the best interests of the child. The Act requires that a child be placed in alternative care for as short a period as possible and that, with the assistance of a designated social worker, effort is made for the reunification of the child and parent or caregiver.

177. National norms and standards for child protection require that family reunification and reintegration services provide for family development, family skills training, family group conferencing and mentorship.

178. The Children's Act's provisions are binding outside the Republic and therefore apply to international reunification. In collaboration with the UNHCR and Red Cross, the DOH plays a role in the family reunification of asylum-seekers and refugees.

5.5. Recovery of maintenance for the child

179. Legislation includes measures to secure the recovery of maintenance for a child from the parent or other person having financial responsibility for the child, both within the Republic and from abroad. The South African Maintenance Act (1998) reinforces the

common law duty of parents to support their children, as does the Children's Act. Where there are co-holders of parental rights and responsibilities, the latter Act includes maintenance arrangements as a consideration in the development of parenting plans.

180. In terms of jurisdiction, a Children's Court may issue a provisional contribution order against a respondent resident in any country within the meaning of the Reciprocal Enforcement of Maintenance Orders Act (1963) or the Reciprocal Enforcement of Maintenance Orders (Countries in Africa) Act (1989).

181. To support implementation of the Maintenance Act, the Department of Justice and Constitutional Development (DOJCD) launched Operation Isondlo in 1999. This programme addresses concluding observation No. 23 that South Africa take more effective measures to ensure compliance with maintenance orders. The Department created numerous posts to strengthen the capacity of courts in handling maintenance orders, address backlogs and remove the onus on complainants to trace defaulters. This additional capacity has led to an estimated 65% reduction of the cycle times in the hearing of maintenance matters.

182. To improve tracing of maintenance defaulters, the DOJCD established an Information Support Service for Maintenance Investigators and introduced civil enforcement of maintenance orders through measures such as attachments of salaries, civil execution and attachments of debts. A multilingual awareness campaign was also launched, targeting both urban and rural communities, to raise public awareness about how to access maintenance.

5.6. Children deprived of a family environment

183. In line with the Guidelines for the Alternative Care of Children annexed to General Assembly resolution 64/142 of 18 December 2009, South Africa has developed comprehensive child protection laws which include provision for a range of alternative care options. The overarching policy directive is that removal of the child from the family should be a last resort and that separation should ideally be temporary. If it becomes necessary to remove a child from his or her family, preference is given to placing the child in a family-like alternative. Alternative care options include adoption, foster care, child and youth care centres, and temporary safe care.

184. Placement in alternative care is done via a Children's Court for a maximum period of two years, whereafter it must be reviewed. Any such placement must include a documented permanency plan that takes into account the child's age and developmental needs and aims to achieve stability in the child's life.

185. In line with General Comment 7's recognition of the importance of placement in family-like care for very young children, the Act requires that any very young child who has been orphaned or abandoned must be made available for adoption, except when this is not in the best interests of the child.

186. South Africa has established a regulatory framework for the admission of a child to an alternative care setting, the registration and management of alternative care institutions, and the training of individuals involved in the provision of alternative care. All child and youth care centres must be registered with the provincial DSD and managed in accordance with the criteria of the Children's Act, including compliance with a quality assurance process and minimum qualification requirements for child and youth care workers.

187. The DSD has conducted an audit of all unregistered child and youth care centres nationally to assist them in complying with the prescribed norms and standards and enable them to become registered. It is also improving data management systems to strengthen the database of all facilities working with children.

188. In concluding observation No. 25 the Committee expressed its concern about an insufficient number of alternative care facilities in previously disadvantaged communities. In 2011/12 there were 355 alternative care facilities accommodating 21,047 children and providing bed capacity of 24,495. While this suggests that current capacity is able to meet the demand for residential care, it is not clear to what extent the necessary capacity is available in areas of greatest need; an information gap the DSD has sought to close through its audit of centres. Close to half of children (45%) are admitted to registered child and youth care centres because of abandonment or neglect.

189. In line with concluding observation No. 25, South Africa has instituted training on alternative care for social workers and social service professionals.

190. The Children's Act has expanded foster care with a view to accommodating more children in family-like environments aligned as far as possible with the child's ethnic, religious, cultural and linguistic background. The Act defines three types of foster care placements: (a) with a person who is not a family member of the child (traditional foster care); (b) with a family member who is not the child's parent or guardian (related foster care); and (c) in a registered cluster foster care scheme (a house-mother with a maximum of six children). Foster parents are entitled to financial support in the form of the Foster Care Grant (FCG). The number of children receiving the FCG has increased dramatically from 215,000 in 2004 to 510,298 in 2010. The value of the grant has also increased, from R530 per child per month in 2004 to R740 in 2011.

191. The rapid increase in foster care placements has contributed to substantial backlogs and lapses in foster care orders. In 2011 about 84,000 reported foster care cases were awaiting finalisation, and between April 2009 and March 2011 more than 110,000 foster care orders lapsed, resulting in the loss of the FCG to these foster parents. Provincial consultations highlighted this as a key concern, and a recent court judgment on the matter called for a comprehensive legal solution to prevent qualifying families losing their grants and to address the underlying problems by the end of 2014. In the meantime there is a moratorium on grants lapsing in the future, and in response to the court's call for reinstatement of FCGs and foster care orders that lapsed since April 2009, significant efforts have been made to address these backlogs through national and provincial foster care project plans.

192. Many foster care placements are with relatives caring for orphaned children. The High Court recently clarified the legality of the arrangement and strengthened the material support provided in particular to grandmothers assuming this burden of care. It ruled that orphaned or abandoned children who have no visible means of support may be placed in the foster care of relatives who have a legal duty of support but lack the means to exercise that duty. Once such children are placed in foster care, their foster parents should receive the FCG to provide material support to care for them.

193. No child should at any time be without the support and protection of a legal guardian or other recognised responsible adult or competent public body. The High Court is the upper guardian of all minors in South Africa. On the death of one parent, the surviving parent becomes the sole guardian. In all other instances, a guardian is appointed by will or the High Court.

194. In the case of unaccompanied or separated foreign children, section 28 of the Constitution places a duty on the State to protect and provide for them as it would any other child. No unaccompanied foreign children can be deported without first having been the subject of a Children's Court enquiry.

5.7. Periodic review of placement

195. In line with concluding observation No. 25, the law requires that a foster care order be reviewed every two years; however, the Children's Act does make provision for extended orders to create stability in the child's life. Notwithstanding the order's duration, the Act stipulates that a social service professional visit a child in foster care at least once every two years to monitor and evaluate the placement. In addition, preparation, support and counseling services should be made available to foster parents before, during and after placements to ensure the best interests of the child.

196. For other forms of alternative care, the law requires that care, permanency and development plans for children in alternative care are reviewed every six months to determine if the programme should change.

197. Despite an emphasis on short-term placement in residential care, it is recognised that some children remain in care for too long. To address this, the DSD developed an Alternative Care Strategy (2008) which requires consideration of the possibility of adoption of children in long-term residential or foster care. The strategy also makes provision for independent living programmes for older children living in residential care settings who cannot be placed in families.

5.8. National and intercountry adoption

198. In alignment with concluding observation No. 26 and General Comment 7, South Africa acceded in 2003 to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. The State also strengthened the legislative framework for both domestic and inter-country adoptions, in chapters 15 and 16, respectively, of the Children's Act. The Act details the procedures for adoptions, require accreditation of those involved in adoptions, and establishes a register of Adoptable Children and Prospective Adoptive Parents for matching and placement purposes.

199. The DSD has developed an adoption policy framework and strategy to promote adoption services in South Africa in view of the country's large numbers of orphans and vulnerable children. In accordance with the Hague Convention, the strategy prioritises domestic over international placements. However, the Constitutional Court has stressed that the best interests of the child outweigh other considerations, including the subsidiarity principle (*AD v. DW* (Centre for Child Law as Amicus Curiae, Department of Social Development as Intervening Party) 2008 3 SA 183 (CC)).

200. Adoption service providers in all provinces have been trained on the Children's Act, Practice Guidelines on Inter-country Adoptions, and International Social Services and Guidelines on Separated and Unaccompanied Minors.

201. While legislation is in place to enable adoption, the number of legal adoptions is low compared to the available children needing permanent homes. Registered adoptions in 2001–2010 fluctuate at about 2,200 per year, of which roughly 10% are international adoptions. (See table 27 in annex I.) Provincial consultations suggest that the absence of an adoption grant is a factor impeding legal adoptions.

202. Although legal adoption figures are low, informal care arrangements are common, and an estimated 1 in 4 children resides with someone other than a biological parent (Meintjes & Hall, 2010). Some of these children (the number is unknown) are adopted through customary practices that in effect entail transfer of customary parental rights and duties from one family or member to another. Unlike placements under the Children's Act, customary adoptions are not subject to regulation and official monitoring. A number of these arrangements are recognised as foster care placements and thus subject to the relevant norms, standards and review processes contained in the Children's Act.

203. The South African International Social Services (ISS) works with other such services to facilitate casework between countries.

5.9. Illicit transfer and non-return

204. In order to combat the illicit transfer and non-return of children abroad, South Africa acceded to the Hague Convention on the Civil Aspects of International Child Abduction [October 1980] in 1996 and has incorporated it into law through the Children's Act. The Central Authority for the Convention is the Chief Family Advocate, assisted by the Family Advocates' offices nationally. Abduction and/or wrongful retention of children, as well as prevention of parental contact with a child that is being retained from a contracting state, is dealt with either through non-litigious mediation or through litigation in the High Court.

5.10. Abuse and neglect, including physical and psychological recovery

205. Concluding observation No. 27 raises concerns about the high incidence of violence against children in general, domestic violence, ill-treatment and abuse of children. Crimes against children continue to pose a serious challenge for the Government.

206. According to SAPS Annual Report 2010/2011, between 2006/7 and 2010/11 54,000 children per year were reported to be victims of violent crime; moreover, it is widely acknowledged that rates of reporting are low. Sexual abuse is the single-largest category of abuse against children, accounting for almost half of all reported cases of abuse per annum. SAPS crime statistics show that, of the 28,128 sexual abuse cases against children reported in 2010/2011, 61% of offences were committed against children younger than 15 and 25% involved young children aged 0–10 years.

207. South Africa has a child homicide rate of 5.5/100,000 population with a distinct gender pattern — rates are highest among young girls aged 0–4 years and teenage boys aged 15–17. A survey of child homicides for 2009 found that nearly half of them (44.5%) were due to abuse and neglect and that one-third were due to abandonment in the first week of birth. Most children were killed by a person known to them, and nearly half of all girl homicides were perpetrated by mothers. Rape or sexual assault was suspected in 25% of homicides of girls (Medical Research Council, 2012). The high incidence of violence against children is compounded by low rates of offender conviction.

208. Since 1998 the Government has made powerful strides in ensuring that the legal framework for care and protection of children is aligned with the Constitution and international norms binding on South Africa. Section 28(1)(d) of the Constitution imposes a duty on the State proactively to prevent the abuse of children and put appropriate legal provisions in place. Further to this, numerous laws, policies and strategies have been developed, the most important of which are reported hereunder.

(a) The Children's Act provides an expanded range of protective measures for children, including mandatory reporting of physical and sexual abuse and deliberate neglect. In addition, it introduces a Child Protection Register (CPR), Part A of which records instances of abuse or deliberate neglect inflicted on specific children in order to protect them from further harm, and Part B of which records the names of persons unsuitable to work with children. However, provincial consultations indicate that responsible adults (such as teachers) are often reluctant to report suspected abuse through fear for their safety and a lack confidentiality. Consultations also pointed to challenges in CPR management.

(b) A National Policy Framework was developed to promote co-operation and collaboration between relevant role-players (including governmental departments and civil society organisations).

(c) The Sexual Offences Act (2007) repeals or amends other Acts to bring all legal aspects relating to sexual offences within a single statute. It includes definitions of key terms, deals with issues of consent, introduces compulsory HIV testing for alleged sexual offenders, provides for a national register of sexual offenders, details obligations to report, provides guidance on sentencing, and makes provision for children with disabilities. The Act also creates a range of new offences, such as child-sex tourism and grooming. (See Part 8.6 for more information.)

(d) The Domestic Violence Act (1998) provides for protection orders against perpetrators of domestic violence. The Act defines domestic violence to include acts of physical abuse; sexual abuse; emotional, verbal and psychological abuse; economic abuse; intimidation; harassment; stalking; and damage to property. To ensure immediate protection, the Act allows courts to grant Interim Protection Orders against abusers in their absence and applications for protection orders to be brought outside court hours. Moreover, it allows children to apply for a protection order against abusers, with or without assistance of the parent or guardian.

(e) The Child Protection Strategic Plan 2010–2014 interprets provisions of the relevant Acts and outlines strategic goals, including a costing plan.

(f) The updated National Policy Framework and Strategic Plan for the Prevention and Management of Child Abuse, Neglect and Exploitation (2004) and accompanying norms and standards help to standardise and monitor service access and quality across the social welfare sector.

(g) The DOH Sexual Assault Care Policy (2005) and Clinical Management Guidelines have been implemented to guide health-care responses to sexual abuse. The Guidelines emphasise the medical and psychological management of rape survivors as well as the responsibilities of health professionals.

(h) While post-rape health services have improved substantially, not all hospitals and police stations are equipped with the necessary rape kits, and many health professionals are not adequately trained in this area, particularly in relation to children. Continued efforts are needed to ensure services meet the needs of child rape survivors and to address under- and late reporting of child sexual abuse.

(i) Violent and antisocial conduct is fuelled by a range of factors rooted in poverty and structural inequalities. This is reflected in the high rates of firearm injuries, which are a leading cause of death in male teens and also feature in trauma-related causes of death in children younger than 5. In an effort to address this, the Firearms Control Act (2004) aims to reduce the use and distribution of guns. In 2005 the Department of Safety and Security instituted a firearm amnesty in which more than 46,000 guns were handed in. A study finds a significant decrease in gun-related murder of women between 1999 and 2009, most likely due to improved gun-control legislation (SAMRC, 2012a and SAMRC, 2012b).

209. See annex II H for a list of structures and programmes supporting implementation of care and protection legislation.

210. Section 42 of the Children's Act establishes every magistrate's court as a Children's Court; currently there are 384 such courts. In accordance with concluding observation No. 27, the law includes measures to safeguard children participating in court proceedings and emplaces systems to promote child-friendly judicial procedures. For instance, the Children's Act requires that courts apply appropriate questioning techniques for children in general and, in particular, for children with disabilities, traumatised children, and very young children (see Part 3.4 for more information). In addition, the Criminal Procedure Act (1977) allows a child witness to give evidence through an intermediary. Court processes are

also made accessible to people with disabilities through measures such as improved wheelchair access and availability of sign-language interpreters.

211. Training initiatives are in place to strengthen the capacity of social service professionals to protect children from abuse and neglect. These include the development of an accredited programme (the Thogomelo Project) to train 500 community caregivers and supervisors per year between 2008 and 2013. A five-year project was initiated to develop a framework for training social work professionals in child protection. In partnership with UNICEF, the DSD is also developing a Risk Assessment Tool for social workers to ensure that children at risk are appropriately assessed and that relevant services are rendered to them and their families.

212. In concluding observation No. 27, the Committee recommended that South Africa undertake research into child abuse and exploitation to inform efforts in combating these practices. For many of the categories of children in need of care and protection there remains a paucity of up-to-date, systematic and accessible data. These data gaps hamper an accurate analysis of the extent to which the full spectrum of protective rights is being realised. In particular, there are no accurate incidence or prevalence data on child abuse.

213. There are challenges in monitoring budget adequacy and expenditure efficiencies in key service areas for children. However, the available information points to insufficient funding to support the full implementation of critical pieces of legislation that include the Domestic Violence Act, Children's Act and Sexual Offences Act. There is also insufficient budget to cover the full service costs for NPOs assisting in the delivery of legally mandated services to children and families. In 2011, MINMEC approved a new financing policy for NPOs which is to be implemented incrementally.

214. A key issue impacting on the delivery of services to support family and alternative care is the shortage of qualified social service practitioners. Efforts are in place to address this concern. Social work is now recognised as a scarce skill in South Africa, further to which R256-million has been allocated in 2012/2013 to expand the Social Work Scholarship Programme; the DSD also plans to engage veteran social workers to mentor newly qualified ones. In addition to strengthening capacity, the Children's Act makes provision for some child-protection services to be performed by "social service professionals" other than social workers, thus widening the pool of service providers.

215. South Africa took a number of steps during the reporting period to eradicate corporal punishment. (See Part 4.7 for a detailed discussion.)

Part 6: Disability, basic health and welfare

6.1. Children with disabilities

216. Policy and programme developments for children with disabilities are noted in each of the relevant sections of this report. To avoid repetition, the present section deals only with provisions not mentioned elsewhere.

217. In concluding observation No. 32 the Committee expressed its concern about the adequacy of legal protection, programmes, facilities and services for children with disabilities. While South Africa does not have centralised disability legislation, in the reporting period several laws and Government strategies were developed to advance the rights and well-being of children with disabilities:

(a) The Primary Health Care Policy (2000) has been adopted as the vehicle for providing accessible and equitable health care services, with the beneficiaries of such services including people with disabilities.

(b) The National Rehabilitation Policy (2000) was introduced to help meet basic service standards across all provinces. The principles of development, empowerment and social integration of people with disabilities are the backbone of the document.

(c) The Mental Health Care Act (2002) provides for children with severe or profound intellectual disabilities.

(d) In line with article 23(3) of the CRC, the provision of free health care to children and pregnant and lactating women was extended to include people with disabilities in identified categories through the Free Health Care for All Persons with Disabilities Policy (2003), such health care including the provision of assistive devices. A policy on the Standardization of Provision of Assistive Devices was published to ensure that all provinces apply a uniform system with regard to these devices.

(e) The Children's Act brings child care and protection legislation for disabled children in line with the CRC and the Convention on the Rights of Persons with Disabilities (CRPD). The Act states that in any matter concerning a child with a disability, consideration must be given to enabling his or her participation and providing conditions that ensure dignity, self-reliance and community involvement.

(f) In 2007 South Africa ratified the Convention on the Rights of Persons with Disabilities (CRPD) as well as the Optional Protocol without reservation. The DWCPD was established in 2009 as a direct response to the ratification of the CRPD, with the aim of accelerating the transformation agenda for women, children and persons with disabilities.

(g) In 2009 the DSD drafted the Integrated National Strategy on Support Services to Children with Disabilities to guide the development and implementation of all governmental frameworks on children with disabilities as well as to align budgets, address barriers to service and improve service quality.

218. Financial support to caregivers of children with disabilities is available through the means-tested Care Dependency Grant (CDG). This is a monthly non-contributory cash transfer of R1,200 (as of July 2012) to caregivers of children with severe disabilities or disabling chronic illnesses that necessitate permanent home care. CDG access has increased consistently from 2005 (86,000 beneficiaries) to 2012 (116,000). (See table 33 in annex I.)

219. In line with concluding observation No. 32, early identification programmes have been strengthened to help prevent disabilities and improve child outcomes. The Policy Guidelines for the Management and Prevention of Genetic Disorders, Birth Defects and Disabilities (2001) provide for the decentralisation of health-worker training, expansion of sentinel sites for birth defect monitoring, and improved collaboration. Prevention services include the Expanded Programme on Immunisation and antenatal and postnatal services. The DOH is currently strengthening its Early Childhood Intervention (ECI) programme, and Early Hearing Detection and Intervention forms a key component of the service.

220. Children with HIV are at high risk of developmental delay, and developmental screening can be an entry-point to HIV diagnosis. The National HIV/AIDS and STI Strategic Plan for South Africa (2007–2011) made provision for early detection of disability through six-monthly screening of all children under 5. However, progress with this indicator was not reported because of a lack of available data. Improvements in early identification of disability are expected with the introduction of the new Road-to-Health booklet. It addresses developmental screening and provides for referral to the next level of care if the child has not achieved particular milestones.

221. Despite strong political commitment to address inequities and discrimination affecting people with disabilities, a large gap still exists between policy and practice. Challenges to policy implementation include capacity constraints at programmatic level, confusion over disability definitions, procedural bottlenecks and lack of resources. The

consultation process around this report identified the lack of, or long waiting-period for, assistive devices for children with disabilities, especially in rural areas; the lack of braille and sign language services; lack of access to public transport; the need for support programmes for caregivers of children with disabilities; and the lack of adequate protection of the sexual and reproductive health rights of children with disabilities.

6.2. Child survival and development

222. Child health outcomes and the distribution of morbidity and mortality continue to be shaped by inequalities, with higher mortality rates found in rural settings, among Africans and in the poorest quintiles. In concluding observation No. 29, the Committee recommends that South Africa increase efforts to reduce the incidence of maternal, child and infant mortality. Trends in infant, child and maternal mortality are shown in tables 36 to 39 of statistical annex I. While figures for 2003 represent an increase in child mortality since 1990, those for 2008 and 2011 show definite signs of reduction. Despite this progress, there is a still substantial work to be done to achieve the 2015 MDG targets (DOH, 2012). Maternal mortality rates in 2009 were 300/100,000, with an MDG target of 38/100,000 by 2015. In 2011 the infant mortality rate was 38/1000 and the under-five mortality was 54/1000 live births, with an MDG target of 20 per 1000 by 2015.

223. Efforts have been made to strengthen data on infant, child and maternal mortality. These include the Child Healthcare Problem Identification Programme, a mortality audit tool for children that was introduced in 2001 and is now in use in every province. Findings from the programme feed into the national Saving Children Report. Between 2005 and 2009 the tool identified the leading causes of child deaths in hospitalised children as acute respiratory tract infections (including pneumocystis pneumonia), sepsis, diarrhoeal disease, tuberculosis and meningitis, with these conditions accounting for 80% of deaths. Most deaths (63%) occurred in children under one year of age, and 34% were in the first 24 hours of admission; 65% of children who died were malnourished, with 35% having severe malnutrition (MRC and CDC, 2011).

224. The Child Healthcare Problem Identification Programme, together with the Perinatal Problem Identification Programme, has identified ways to reduce child deaths by addressing avoidable health systems and patient-related factors. These include improved clinical management, better administration of health services, and community actions. A Ministerial Committee on Perinatal Mortality (NaPeMMCo) was also appointed in 2008 to improve the quality of data on perinatal deaths and to identify and address deficiencies in the quality of care which mothers and their newborn babies receive.

225. Injuries are another common cause of childhood mortality, accounting for a growing proportion of deaths as children get older: 50% of deaths in boys aged 15-17 are injury-related (Statistics South Africa, 2009). Leading causes of fatal injuries include road traffic accidents, drowning, burns and firearm injuries.

226. According to the National Committee for the Confidential Enquiries into Maternal Deaths, non-pregnancy-related infections (mainly deaths in HIV-infected pregnant women complicated by tuberculosis and pneumonia) accounted for 40.5% of maternal deaths between 2008 and 2010. Improving the quality of maternal care and addressing HIV infection are thus key interventions for reducing maternal mortality.

227. The DOH's Strategic Plan for Maternal, Newborn, Child and Women's Health (MNCWH) and Nutrition in South Africa (2012–2016) identify priority interventions for reducing maternal and child deaths, with services clustered around five packages: maternal health; newborn health; child health; women's health; and community interventions. Efforts to reduce maternal and child mortality rates will focus on ensuring that every woman, mother and child receive these services as part of comprehensive service packages at

community, PHC and hospital levels. The strategy reiterates the importance of the Integrated Management of Childhood Illnesses (IMCI) programme for children under 5. The South African version of IMCI has been updated to include new developments in case management in response to leading causes of death in children. IMCI aims to ensure that 60% of health care providers in all PHC facilities are trained in IMCI. In 2010/11 this target had been met in 66% of PHC facilities (Department of Health, 2012).

228. In 2012 the Minister of Health launched a national Campaign on Accelerated Reduction of Maternal Mortality in Africa (CARMMA). It aims to accelerate the implementation of activities to stem maternal and child mortality and to meet MDG targets.

6.3. Health and health services, in particular primary health care

229. Since 1994 free health care has been available in public health facilities to pregnant women and children under the age of 6 years. In 2006 free primary health care was extended to all users. Primary Health Care (PHC) services are provided by 3,077 clinics and 313 Community Health Centres, whilst hospital services are provided at 269 district hospitals, 54 regional hospitals, 12 tertiary and nine central hospitals.

230. The introduction of free health care services, together with the revitalisation and establishment of more PHC facilities, has improved access to health care services for many women and children, especially in rural areas. According to District Health Information System data, utilisation of PHC services has increased significantly, with more than 120 million visits to PHC facilities recorded in 2010.

231. Utilisation rates among children increased, with children under 5 visiting PHC facilities an average of 4.5 times in 2010 (DOH, 2012). The primary health care package was defined in 2002, establishing norms and standards for primary health care clinics and community services as well as providing a tool to assess health needs and guide resource allocation.

232. Other notable improvements in primary health care include a compulsory one-year community service programme for newly-graduated health professionals and considerable advances in equitable allocation of public resources to address historical inequalities in provisioning.

233. The Children's Act also sets out the rights of children to health care information, emphasising that the child's best interests must guide health professionals in all decisions affecting children.

234. Notwithstanding these achievements, inequalities persist in coverage and quality of health care. In order to tackle challenges in the health system, the DOH has proposed the introduction of a National Health Insurance (NHI). The intention is to introduce NHI over the next 14 years, including a 5-year pilot and enhanced efforts to upgrade public health facilities (DOH, 2011a). Initial efforts will be funded by a conditional grant, but long-term cost recovery will involve additional taxes for those earning above a certain threshold. Access to NHI services will be open to all citizens (and legal long-term residents) regardless of their employment status and ability to make a direct monetary contribution to the NHI Fund.

235. In accordance with concluding observation No. 29, the DOH is re-engineering the Primary Health Care system and expanding community health services. This includes introducing district clinical specialist teams and a ward-based PHC outreach programme. The Department also aims to develop an identification system to ensure continuity of care and address loss to follow-up. The new Integrated School Health Programme (ISHP) seeks to strengthen existing school health services. Likewise, the road map document for the education sector (Schooling 2025 and Action Plan to 2014) includes health and poverty-

reduction interventions for learners through the Care and Support for Teaching and Learning (CSTL) programme.

6.4. Addressing communicable and non-communicable diseases and promoting well-being

236. One of South Africa's success stories with regard to primary prevention of communicable diseases is the Expanded Programme on Immunisation (EPI). Since it came into effect in 1995, significant strides have been taken to increase coverage. Over 89% of children had received full routine immunisations by one year of age in 2010/11 (DOH, 2011a). Vaccines against pneumococcal and rotavirus infections were introduced into the routine immunisation schedule in April 2009, and by March 2011 a coverage of 72.8% for pneumococcal 3rd dose and 72.2% for rotavirus was achieved. The influenza vaccination was introduced in 2010 for pregnant women and high-risk children, and the updated EPI schedule includes immunisation with tetanus toxoid at 6 and 12 years (DOH, 2012a). It is expected that high coverage with these new vaccines will decrease morbidity and mortality attributable to pneumonia and diarrhoea. South Africa was declared free of wild polio virus in 2006, and neonatal tetanus has also been eliminated. Following concerns about a re-emergence of measles, successful mass immunisation campaigns were conducted during 2010/2011.

237. Provincial consultations highlighted the need to address challenges in procuring vaccines so as to prevent periods of stock-outs each year.

238. In terms of non-communicable diseases, the 2002 policy framework for non-communicable chronic conditions in children maps out health management responsibilities for the care of children with chronic health conditions. Standard Treatment Guidelines (STGs) and an Essential Drugs List (EDL) were published for mandatory use in public sector facilities. This is regularly reviewed and updated.

239. The need to strengthen mental health services is evidenced by high suicide rates amongst young people. Nine comma five percent of all teen deaths are due to suicide, which is the fastest-growing, and second leading, cause of death in the 15–24-year age group. The National Youth Risk Survey found high rates of teen depression, and maternal mortality data also indicate high rates of suicide in women under 20 in their first pregnancy. In its concluding observation 31, the Committee highlighted the need to address this issue.

(a) Several policy developments have taken place regarding child and adolescent mental health. In 2004 the Directorate of Mental Health and Substance Abuse in the DOH released Policy Guidelines for Child and Adolescent Mental Health. In the same year, the Human Sciences Research Council was commissioned by the DOH to develop staff norms for Child and Adolescent Mental Health Services (CAMHS). The National Adolescent Health Policy and Implementation Plan also provide guidance to provinces on addressing issues such as suicide in adolescents.

(b) Numerous factors impact on children's mental health in South Africa, including high levels of exposure to abuse and violence. School-based interventions and carer-infant bonding programmes are among the initiatives taken to address these underlying issues.

(c) Staff capacity at primary health care level is severely constrained, and the classification of child and adolescent psychiatry as a sub-speciality means it is resourced only at tertiary level. The DOH recognises that this speciality needs to be re-classified to strengthen primary health-care resourcing.

6.5. Efforts to address the most prevalent health challenges – HIV/AIDS and TB

240. The HIV/AIDS landscape has shifted dramatically since 1998. In 2000 the first National HIV/AIDS strategic plan was developed and the South African National AIDS Council (SANAC) established, thereby improving collaboration and coordination across departments and civil society sectors involved in the HIV/AIDS response. In 2002/2003 SANAC underwent restructuring, during which the children's sector successfully lobbied for representation. It is now one of 18 civil society sectors represented on SANAC, and participates actively in the national council, technical task teams and Provincial AIDS Councils.

241. The 2nd National HIV/AIDS and STI Strategic Plan (2007–2011) were finalised under the leadership of SANAC. The plan emphasised for the first time the importance of collaborative response between all stakeholders. The current NSP (2012–2016) takes another step forward with the integration of TB, in recognition of high co-infection rates. The goals of the NSP 2012–2016 are to: (a) reduce new HIV infections by at least 50%; (b) initiate at least 80% of eligible patients on antiretroviral treatment (ART), with 70% alive and on treatment five years after initiation; (c) reduce new TB infections and deaths by 50%; (d) ensure an enabling legal human-rights framework in order to support implementation of the NSP; and (e) reduce self-reported stigma related to HIV and TB by at least 50%.

242. Renewed engagement and high-level political leadership have paid off with significant improvements in HIV-related service-reach and outcomes. Key achievements and challenges are reported hereunder.

243. Notable HIV-prevention achievements include a campaign promoting medical male circumcision, intensified HIV counseling and testing, making HIV life-skills education compulsory in all schools and grades, and increasing distribution and use of condoms among young people.

244. Prevention of mother-to-child transmission (PMTCT): The Annual Antenatal Seroprevalence Survey (2011) shows that HIV-prevalence in pregnant women in public sector clinics increased from 15% in 1997 to about 30% at present. Delays in the implementation of the PMTCT programme contributed to the increase in infant mortality observed since 1990. However, significant gains have been made since the roll-out of PMTCT services. Interventions to prevent mother-to-child transmission of HIV are now offered in more than 95% of public antenatal and maternity facilities. Uptake of PMTCT services is high, with more than 98% of women getting HIV-tested during pregnancy and 91.7% of HIV-positive mothers receiving ARV treatment or prophylaxis. The progress in implementing the national PMTCT programme has reduced mother-to-child transmission to 2.7% at six weeks after birth (SAMRC, DOH and PEPFAR/USCDCP, 2012). Greater effort is now needed to address provincial disparities and minimise postnatal transmission associated with breastfeeding. New guidelines for the antiretroviral-therapy (ART) component of PMTCT have been introduced, and the DOH has emphasised that all eligible women should receive care accordingly.

245. Early diagnosis and treatment: More than 3,000 primary health care clinics are now able to provide counseling, testing and treatment for HIV and AIDS (UNHRC, 2012). The numbers of HIV-positive patients on treatment increased substantially since the start of the public sector ART programme in 2004. As of mid-2011, almost 1.8 million people are on ARV treatment. Children receiving ART increased from 4,200 (2004) to 152,000 (DOH, 2011); in 2011 alone, 40,000 children were initiated on ART (DOH, 2012a).

246. Early diagnosis of children less than 18 months with HIV is facilitated by PCR testing, which is now available at all health facilities. According to the District Health Barometer 2010/11 (Health Systems Trust, 2012), which measures the proportion of HIV-

exposed infants receiving a PCR test before two months of age, the national coverage of PCR testing in 2010/11 was 52%. This figure doubled from 26% in 2008/09 but remains below the target of 85% for 2011. According to the Barometer, rates of PCR testing of HIV-exposed infants vary substantially across provinces, with the highest coverage in the Western Cape (74%) and Gauteng (67%) and the lowest in the Eastern Cape, KwaZulu-Natal and Limpopo, all at 42%.

247. Guidelines for treating children using ART were developed and implemented. The DOH issued a directive in 2012 that all children under 5 are eligible regardless of CD4 count and/or WHO clinical staging. The DOH is also developing a comprehensive plan for paediatric and adolescent HIV and TB that addresses early infant diagnosis, treatment, care and support and which includes a review of paediatric M&E systems.

248. Despite the progress above, challenges remain in terms of ensuring that children are initiated on ART as early as possible and that systems for tracking progress in this respect are strengthened.

249. Post-exposure prophylaxis for child rape survivors: In 2002 the Government committed itself to providing post-exposure prophylaxis (PEP) to survivors of sexual violence to help prevent their risks of contracting HIV. South African law and policy provide a framework to facilitate the prompt and integrated provision of health and other services to children and other rape survivors. In addition, the Sexual Offences Act enables rape victims to apply to court to compel disclosure of their assailant's HIV status. Reliable national data are not available on the extent to which children have access to PEP.

250. TB services: South Africa ranks third highest in the world in terms of TB burden (0.4–0.59 million), and more than 70% of TB patients are also living with HIV. The epidemic is compounded by multidrug-resistant tuberculosis (MDR-TB), with almost 7,386 laboratory-confirmed MDR-TB cases and 741 confirmed cases of extensively drug-resistant TB (XDR-TB) in 2010 (DOH, 2012b). Efforts to prevent TB in children include the routine administration of the BCG at birth, contact tracing and INH prophylaxis for children exposed to a close adult contact with TB. Guidelines for managing HIV in children (2010) aim to ensure that HIV and TB care are provided as part of integrated maternal and child health services, and include guidelines specifically for the management of children with TB.

6.6. Reproductive health rights of adolescents and measures to promote a healthy lifestyle

251. Concluding observation No. 31 recommends that South Africa strengthen the implementation of adolescent and youth health policies. The combined impact of HIV, poverty, poor-quality education and high levels of violence make adolescents a particularly vulnerable group: 39% percent of 15- to 19-year-old girls in South Africa have been pregnant at least once, and 1 in 5 pregnant adolescents is HIV-positive. In addition, the annual risk of TB infection in this age group is high, with TB incidence peaking in adolescents and youth (DOH, 2012b). Key efforts to address this are reported below:

(a) Access to reproductive health rights has improved. In terms of the Children's Act, children as young as 12 are legally entitled to access condoms (and other forms of contraception) from public health facilities and are entitled to confidentiality in this respect. The Choice on Termination of Pregnancy Act (1996) enables adolescents to access free and safe abortions within the first trimester of pregnancy. Implementation of the latter Act has significantly reduced abortion-related mortality.

(b) The Policy Guidelines for Youth and Adolescent Health (2002) outline five strategies: promoting a supportive environment; providing information; building skills; counseling; and access to health services. New guidelines for Youth and Adolescent Health (2012) are currently in development.

(c) The National Adolescent-Friendly Clinic Initiative (NAFCI) was introduced by the DOH in all provinces in 2003 to make health care facilities more accessible and acceptable to adolescents, and in particular to remove barriers to reproductive health services for young people. As of 2011, 47% of primary health care facilities were accredited as youth-friendly.

(d) The NSP (2012–2016) identifies youth, especially young women, as a key population and requires targeted action by all relevant stakeholders.

(e) The State is concerned with the number of teen pregnancies and the consequences thereof for the health and well-being of the girls and their infants. Accordingly, it has developed a number of strategies for the prevention of pregnancies and the provision of services and support to girls during and after their pregnancies. The Strategic Plan for Maternal, Newborn, Child and Women's Health and Nutrition 2012–2016 prioritises access to contraceptive services for adolescents in a youth-friendly manner, improved access to termination of pregnancy services, and improved reproductive health services for adolescents to reduce teen pregnancies and HIV-prevalence. The Integrated School Health (2012) makes provision for the delivery of a package of services to children at school, including information and education on sexual and reproductive health, with an express emphasis on teenage pregnancy, choice of termination of pregnancies, and PMTCT. In the school context, the DBE withdrew its Measures for the Prevention and Management of Learner Pregnancy and is in the process of developing a revised comprehensive policy (described in more detail in annex II K).

252. In its efforts to promote healthy lifestyles, South Africa made great strides in curbing smoking. The Tobacco Products Control Act (1993) is the primary tobacco control law and has been amended, inter alia, to prohibit advertising and promotion of tobacco products. It protects children from exposure to tobacco products in motor vehicles and designated smoking areas, and prohibits access to vending machines that sell such products. Together with increased taxation on cigarettes, legislation has contributed to a decline in smoking. In 2005 South Africa became a party to the WHO Framework Convention on Tobacco Control.

6.7. Measures to prohibit and eliminate all forms of harmful traditional practices

253. South Africa accommodates cultural rights as well as children's protection rights through the adoption of a legal system that recognises both customary and statutory laws. Whilst a number of traditional practices contain protective elements for children, others are potentially harmful. These include a form of forced marriage (ukuthwala), genital mutilation, polygamy, virginity testing, facial and body scarification, and digit amputation. Legislative reform in the past decade has sought to protect children from such practices.

254. A number of measures have been taken pursuant to concluding observation number 33 and accompanying recommendation that the State take measures to protect children against harmful customary practices. Section 12(1) of the Children's Act provides that "[e]very child has the right not to be subjected to social, cultural and religious practices which are detrimental to his or her well-being". Further to this, the Act either prohibits or regulates various practices deemed harmful to children, including child marriages, forced marriages, genital mutilation, virginity testing and circumcision of male children. The State has implemented training and awareness-raising measures among practitioners to ensure safe male circumcisions and has undertaken advocacy promoting the performance of procedures by qualified medical practitioners in clinics and hospitals.

255. Child marriages are also regulated through the Marriage Act and the Recognition of Customary Marriages Act. As further discussed in Part 2, paras. 43 and 44 of the report, persistent traditional, community and family attitudes and practices present challenges to

implementation of these protective measures. The State is, in response thereto, continuing to engage in awareness-raising and advocacy initiatives, with the support of NGOs, on the relevant provisions of the Act and the duty of relevant stakeholders to adhere to these and report cases of non-compliance.

256. Sex with a child under 16, assault, rape and kidnapping (all of which are implicitly a part of modern-day ukuthwala) are criminally sanctioned in terms of the Sexual Offences Act. The SALRC has initiated a process to establish if additional law reform is necessary to address the growing prevalence of ukuthwala in South Africa.

257. Traditional leaders have a legal mandate to develop, enforce and monitor customary law as well as to advise and engage with the Government in the development of legislation that impacts on customary laws and practices. This role is regulated through the Council of Traditional Leaders Act (1997), the Traditional Leadership and Governance Framework Act (2003) and the Traditional Leadership and Governance Framework Amendment Act (2003); in addition, it is recognised in both the Children's Act and Child Justice Act. Furthermore, the pending National House of Traditional Leaders Bill No. 56D–2008 expressly imposes on the House of Traditional Leaders the obligation to transform and adapt customary law and custom to comply with the provisions in the Bill of Rights. The DSD and NGOs have established constructive working relationships with a number of traditional leaders to promote positive customary practices and discourage those that are harmful to children.

258. The Cabinet approved the Women Empowerment and Gender Equality Draft Bill for publication in the Government Gazette for public comment. The Bill provides the Minister of Women, Children and People with Disabilities with the authority to monitor, review and oversee gender mainstreaming, integrate gender- equality considerations into all programmes of Government and other sectors, and promote the protection and advancement of women as envisaged in section 9(2) of the Constitution.

259. The provisions above are to be strengthened by the establishment of the National Council on Gender Based Violence, located in the DWCPD.

6.8. Measures to protect children from substance abuse

260. Excessive social drinking in South Africa poses a major public health problem and contributes to high levels of violence and risk-taking behaviour. As such, a number of policies and programmes seek, in furtherance of concluding observations Nos. 31 and 38, to protect children from substance abuse. These include: (a) the Prevention and Treatment of Drug Dependency Act (1992), which is currently in place pending the finalisation of regulations to the Prevention and Treatment for Substance Abuse Act (2008), whereafter the latter legislation will replace the former; (b) a National Strategic Action plan for the Prevention of Substance Abuse among Youth in South Africa (1999); (c) the incorporation of drug prevention into school life-skills programmes; (d) a National Drug Master Plan (2013–2017), which aims to reduce demand, supply and harm and which is to be given effect by a statutory body, the Central Drug Authority, that also advises the Minister of Social Development; and (e) the National Liquor Act (2003), which regulates the alcohol industry and proscribes advertising and sales to minors.

261. Governmental departments have embarked on substance-abuse awareness-raising activities that target, among others, children, learners and out-of-school youth, school governing bodies, pregnant women, liquor traders and communities in general. The NGO sector plays a significant role in the provision of awareness-, prevention- and treatment-services in the field of chemical dependence.

262. Many of these activities are coordinated in the framework of the Anti-Substance Abuse Programme of Action. Efforts are also being made to monitor their impact on

children. A Youth Risk Behaviour Survey is conducted every five years on trends in alcohol-use among secondary-school learners.

263. In accordance with WHO recommendations, the Minister of Finance significantly increased the total consumption tax burden for malt beer and spirits in Budget 2012 to 35% and 48%, respectively. The Department of Transport is considering interventions to address driving under the influence of alcohol.

264. The Directorate for Priority Crimes Investigation focuses on reducing the supply and demand of illicit drugs. In 2011/12 it dismantled 12 clandestine laboratories and seized R14-million's worth of drugs.

265. The Department of Correctional Services (DCS) provides substance-abuse programmes targeting youth and child offenders and detainees at correctional facilities. The programmes support positive behavioural change and aim to raise awareness of the link between substance abuse and negative behaviour.

266. South Africa has strengthened supportive measures for children addicted to substances. In terms of the Children's Act, a child who is addicted to a dependence-producing substance and without any support to obtain treatment for this dependency is deemed a child in need of care and protection, and hence entitled to services and support. Eight public treatment centres operate in five provinces, and there are a further 50 registered private treatment centres, 25 of which are state-subsidised. Among the challenges are that services targeting the very poor are inadequately subsidised and that not all centres provide for in-patient treatment.

6.9. Protecting children with incarcerated parents and children living in prison with their mothers

267. The White Paper on Corrections in South Africa (2005) addresses the needs of special categories of prisoners, including mothers incarcerated with their young children. Section 26D of the Correctional Service Act Regulations states that pregnant inmates must have access to pre-, intra- and postnatal services. They allow for additional visits with biological fathers, next of kin or supportive persons during the pregnancy, and make provision for meeting the additional nutritional needs of pregnant and lactating women.

268. The DCS drafted a Policy for Infants and Mothers (undated) to ensure that care and treatment of young children in correctional facilities is practised according to set standards. The policy makes provision for Mother and Child Units in female correctional centres in order to create as many opportunities as possible for the mother to exercise her parental responsibilities and the infant's development to be maximised. In 2011 the Department opened the first new-generation Mother and Baby Unit for women serving sentences with babies under the age of 2 years. There are now centres like this in Pollsmoor, Durban Westville and Johannesburg Prisons. In June 2012, 95 children were resident with their mothers in South African prisons.

269. Case law also protects children in the sentencing of primary caregivers. In *S v. M (Centre for Child Law as Amicus Curiae)* 2008, the Constitutional Court held that courts must give preference as far as possible to non-custodial sentences for primary caregivers. Where imprisonment is the only recourse, the court must take steps to ensure the safety of children during the absence of the primary caregiver.

6.10. Environmental health

270. Concluding observations 29 and 30 concern the need to improve access to safe drinking water and sanitation services as well as to address environmental degradation impacting on child health. Although racial and provincial inequalities remain, in the period

under review access to safe drinking water and hygienic sanitation has improved. (See Figures 4 and 5 and tables 40 and 41 in annex I).

271. The Free Basic Water Policy and Free Basic Water Implementation Strategy (2002) make provision for the delivery of free basic water supplies to households living in poverty. There are a number of challenges inhibiting implementation of the policy and strategy linked, inter alia, to the complexity of local government processes to access relevant free services and problems with the inadequacy and inefficient use of resources within a number of local municipalities, especially those serving historically marginalised communities. The State has taken various steps, including the centralisation of infrastructure planning, development and local government capacity-building within the Presidential Infrastructure Committee.

272. The National Environmental Management: Air Quality Act (2004) (NEMAQA) defines air quality that is not harmful to health and well-being through national ambient air quality standards. The regulatory tools under the NEMAQA must progressively deliver air quality that is not harmful to health and well-being.

273. The National Framework for Sustainable Development (NFSD) (2008) outlines the environmental and social risks facing South Africa and establishes five strategic priorities: (a) enhancing systems for integrated planning and implementation; (b) sustaining ecosystems and using resources sustainably; (c) investing in sustainable economic development and infrastructure; (d) creating sustainable human settlements; and (e) responding appropriately to emerging human-development, economic and environmental challenges.

274. The Department of Science and Technology's Programme for Accelerating Sustainable Water Service Delivery through technological innovation supports efforts to ensure access to safe drinking water. The first leg of the initiative, in the Amathole District Municipality, was successfully completed in 2011.

275. Although there is a high degree of compliance with national health standards of water quality (94%), the experience of the Ukhahlamba district in the Eastern Cape (where 80 infants died of contaminated water in 2008) underlines the need for vigilance and pre-emptive action by the DOH and local municipalities. Provincial consultations highlighted challenges facing the implementation of environmental health policies, including the illegal dumping of waste, interruptions in water supply, weakened water-purification systems, vandalism of communal taps, the lack of adequate infrastructure maintenance, and ineffective coordination between environmental health services. The Acid Mine Drainage (AMD) situation is a matter of particular concern, given that end-water-users bear the brunt of these mining-related problems. Informal settlements are often erected on AMD tailings, and the children are known to play in AMD-affected rivers and soil. While no formal toxicological studies have been done on the health impacts of AMD, anecdotal evidence indicates that it has serious effects on the epidermis as well as respiratory and digestive systems.

276. South Africa has been active in generating policies and strategies for responding to climate change. The National Climate Change Response Strategy for South Africa (2004) is a comprehensive statement of the Government's view of this large-scale, evolving problem, and in the recent National Climate Change Response White Paper (2011) children are identified as an especially vulnerable group. In 2011 the DWCPD, Department of Environmental Affairs, ODI and UNICEF undertook a study to review the impact of climate change on children in South Africa. The study highlights the need to consider the impact of climate change within the context of broader development challenges facing children and families, including high levels of poverty and inequality, changing

demographics, HIV and AIDS, management of scarce natural resources and rapid urbanisation (DWCPD and UNICEF, 2011).

6.11. Social security and child-care services and facilities

277. The decline in child poverty in the past decade is in part attributable to the growth of South Africa's social assistance programme. The programme includes five major grants, three of which target children: the Child Support Grant (CSG), Foster Care Grant (FCG) and Care Dependency Grant (CDG).

278. The CSG of R100 per child per month was introduced in 1998 for children aged 0–6 whose caregivers qualified in terms of an income-based means test. The CSG's main goal is to ensure that primary caregivers of children in poverty are able to meet the basic needs of the child. In furtherance of concluding observation 24 and associated recommendations for an expanded CSG, reforms have progressively expanded the age of eligibility to all children up the age of 18 years; changed the income threshold to reach poor children more effectively; and adjusted benefit levels for inflation (as of February 2012 the grant value was R280 per child per month). The CSG has grown to become the largest programme in South Africa for alleviating child poverty, with the number of its recipients burgeoning from 70,000 in 1998 to 11.2 million in July 2012.

279. In an evaluation of the CSG commissioned in 2009, it was found that many of the initial challenges obstructing access to the grant had been resolved (DSD, SASSA, UNICEF, 2012). Nevertheless, receipt of the CSG varies across age groups, with relatively low take-up rates for infants and youth in newly-eligible age groups. The study results confirm the CSG's positive developmental impact in promoting nutritional, educational and health outcomes. Receipt of the grant by adolescents also generates a range of ameliorative impacts, not the least among them being a reduction in risky behaviours that in turn reduces the child's risk of HIV infection. The study emphasises that, to maximise the grant's observed benefits, access to it should be both continuous and instituted as early as possible — ideally, at birth. The exclusion of these groups is receiving attention as the relevant departments have commissioned research to establish where the excluded children are and the primary reasons for their exclusions, in order to inform remedial programmatic action.

280. The FCG is available to foster parents who have a child placed in their care by an order of the court. At R770 per month in 2012, the grant value is significantly greater than that of the CSG, and, much like the latter, the number of its recipients has increased, from just over 270,000 in 2005 to 572,903 in July 2012. Nearly half of all FCG recipients are located in the EC and KZN, the two provinces with the greatest proportion of orphans.

281. The CDG is described earlier in Part 6.1.

282. Employment-based contributory social insurance: According to an analysis of data from Statistics South Africa, as of 2009 14% (2.6 million) of children in South Africa were paternal orphans, 3% (622,000) were maternal orphans, and another 5% (966,000) were recorded as double orphans. In the light of these high rates of orphaning, it is critical that child dependents have viable access to social insurance benefits.

283. The formal sector employs 66.4% of the workforce, and most of these employees will be members of a pension or provident fund. In addition, it is compulsory for persons employed in South Africa to contribute to unemployment insurance and workers' compensation schemes, the latter of which provide a death benefit to children. The DSD commissioned a study in 2008 to identify obstacles to accessing death benefits for orphans and widows to inform future programme revisions.

6.12. Child-care services and facilities

284. Article 18 of the CRC requires South Africa to take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible. ECD, which includes the provision of the envisaged child-care services, has been identified as a national APEX priority and enjoys priority status within the DSD.

285. Numerous laws, policies, white papers and plans govern the provision of ECD services and give effect to international and regional obligations to young children. Developments since 1998 include: the White Paper on Early Childhood Development (2001); the Children's Act and its regulations and norms and standards; the norms and standards for Grade R funding (2008) in accordance with the South African Schools Act; and the National Integrated Plan for ECD (2005–2010), currently under review. The latter extends beyond centre-based ECD services and calls for an integrated approach, with primary components of the plan located in a range of sites where children live and are cared for, including homes, formal ECD centres, community child-care centres, prisons, and child and youth care centres. Legislation requires that facilities for the care of children are accessible to those with disabilities.

286. While there is no obligation on the State to fund ECD services, the Children's Act indicates that ECD services should be prioritised: (a) in communities where families lack the means of providing proper shelter, food and other basic necessities of life to their children; and (b) to make ECD programmes available to children with disabilities. Section 92 of the Act states that the National Minister for Social Development must include in the departmental strategy a comprehensive national strategy for securing a properly resourced, coordinated and managed ECD system. In line with the expanding policy provisions, DSD and Education budgets for ECD have increased over the past decade (see table 4 in annex I). Further resources have been directed at ECD via the Expanded Public Works Programme (EPWP), which is accessible for the training of ECD practitioners and the funding of ECD centres.

287. A 2011 diagnostic review of ECD highlights progress since 1994 in improving comprehensive support and services for early childhood. The challenges it identifies include insufficient funding of ECD centres and programmes, insufficient support for parenting, and limited access to affordable care of good quality for very young children. Only 20% of 0–4-year-olds from the poorest households have access to ECD centres, and these centres are of variable quality. Children eligible for government-subsidised ECD receive the benefit only if the area they live in is served by a registered centre and their parents cannot afford the fees (The Presidency Performance Monitoring and Evaluation, 2012). The diagnostic concludes that ECCE needs to be expanded to the most at-need children through home- and community-based programmes, and calls for revision of the funding formula. Drawing on the diagnostic, the DSD hosted a multi-stakeholder conference in 2012. In consequence, the DSD, supported by other departments, is developing a stronger national ECD policy and programme.

6.13. Standard of living measures

288. Poverty and inequality are dealt with in Part 3; measures addressing them are noted in other sections.

289. Nutrition remains a key issue as poor nutrition contributes to deaths in young children. The 2005 National Food Consumption survey found that 18% of children were stunted, 9.3% underweight and 4.5% wasted. Levels for all three indices were highest in young children aged 1 to 3 years. Micronutrient deficiencies were documented, and the study found 14% of children (1–9 years) to be obese (DOH, 2012a).

290. Plans to address children's nutritional needs are included in the Integrated Sustainable Rural Development Strategy and the Urban Renewal Plan (2001). In 2002 the Integrated Food Security Programme was introduced to streamline, harmonise and integrate diverse food security programmes into a single comprehensive strategy for improving food security and nutrition in South Africa.

291. Other targeted initiatives include a school-feeding scheme reaching almost 10 million children; the National Food Emergency Programme (NFEP) administered by the DSD; and the Special Programme for Food Security (2004) aimed at increasing food production and improving livelihoods amongst smallholders. Regulations requiring fortification of certain food products were implemented to reduce micronutrient deficiencies, and routine Vitamin A supplementation for children younger than 5 has been introduced. Deworming is provided at PHC facilities and through targeted campaigns. Most provinces have implemented the WHO Ten Steps for the Management of Severe Malnutrition, which is in place at 125 hospitals and yielding positive results. The Infant and Young Child Feeding Policy (DOH, 2007) regulates safe nutritional and feeding practices for infants and young children. In 2011 the Health Minister signed the Tshwane declaration in support of exclusive breastfeeding, and in 2012 the DOH drafted the Strategic Plan for Maternal, Newborn, Child and Women's Health and Nutrition 2012–2016 to promote maternal and child health and reduce mortality. (See annex II I. for more information.)

292. Although growth monitoring is provided at all health facilities, studies have documented inadequacies in the correct identification and management of children with growth faltering and failure (DOH, 2012a). In 2010 a new Road to Health Booklet was implemented as part of the immunisation programme, and includes improved systems for growth monitoring to enable early identification and referral of children in need.

293. The State's primary measure to realise the right to housing is the National Housing Programme, the largest component of which is the Housing Subsidy Scheme. Delivery figures suggest that a significant proportion of subsidised housing is accessed by women and households with children.

294. Nationally, the proportion of children living in formal housing remained consistent between 2002 and 2007 at about 70%. However, the General Household Survey (2011) indicates that racial inequalities persist in housing access. Virtually all white and Indian children live in formal housing, compared to 89% of coloured and 67% of black children. Just over two million children live in backyard dwellings or shacks in informal settlements; over 40% of these children are within the particularly vulnerable 0–5-year age group.

295. The National Planning Commission (2011) recommends reform to public funding of human settlements to address current challenges and calls for the establishment of an Interdepartmental Spatial Coordinating Committee in the Presidency.

Part 7: Education, leisure and cultural activities

7.1. The right to education, including vocational training and guidance

296. The State has undertaken system-wide reforms to improve the availability and accessibility of education, especially for the majority of children. Measures include the restructuring of the education system, an increased education budget, infrastructure development, and special steps to ensure the inclusion of especially marginalised children, including those in poverty, in rural areas and with disabilities.

297. The different levels of education, which fall under the management of the Departments of Basic Education (DBE), Higher Education and Training (DHET) and Social Development (DSD), were restructured to improve availability of pre-primary,

primary and secondary education. The system makes available: (a) ECD for children aged 0-4 through private facilities; (b) the General Education and Training (GET) band, the compulsory phase of education covering Grades R to Grade 9 (for children aged 5-15) and made available through 25,850 public and private ordinary schools; (c) the Further Education and Training (FET) band, which includes Grades 10–12 at schools (the senior secondary component) as well as vocational programmes at FET colleges; and (d) higher education, which is provided through 23 universities and other institutions across the country.

298. The combined basic and higher education budget has increased substantially over the last decade from R147.2-billion to R207-billion. Education constitutes more than 21% of the Government's total allocated expenditure and accounts for 6% of GDP.

299. The budgets for ECD at Grade R level also increased substantially, from R691-million in 2007/08 to R3.2-billion in 2011/12.

300. The State's ability to ensure the equitable availability of education has been hampered by educational infrastructure backlogs rooted in apartheid fiscal and development policies. Measures that are in place to address infrastructure variability and inequity give priority to educational facilities serving poor, often rural communities. Innovations include: (a) the regulation of minimum infrastructure standards in ECD facilities; (b) the development of a National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2010) and the accompanying Guidelines Relating to Planning for Public School Infrastructure (2012) and National Guidelines for School Library and Information Services (2012), all which have sought to standardise acceptable levels of infrastructure across the provinces and districts; (c) targeted infrastructure development programmes and budgets to ensure basic safety and needs; (d) interventions by the national DBE in two provinces where poor management deepened levels of infrastructural inequity; and (e) improved budget allocations to improve infrastructure and student accommodation at FET colleges and universities. Despite these measures, infrastructure remains a challenge, especially in rural marginalised schools. Efforts to improve the situation are ongoing, with the most recent intervention being the development of draft infrastructure norms and standards in 2013.

301. The State recognises that making educational institutions available is not enough in itself to realise the right of children to education and that further measures are needed to ensure that especially disadvantaged children gain access to the system. The State's focus in the post-apartheid years has been on improving educational access for the majority of children that were historically excluded, and its main achievements include the following:

(a) Access to ECD facilities (not including Grade R) almost doubled, from about 16% in 2001 to approximately 30% in 2011 (The Presidency, DPME, 2012). Grade R enrolments have also doubled, from 300,000 in 2003 to 705,000 in 2011 (Statistics South Africa, 2012).

(b) A near-universal primary school enrolment rate of 98% was attained in 2010 (DBE, 2011e).

(c) Retention rates have improved: 88% of learners completed Grade 9 in 2010 compared to 80% in 2003 (DBE, 2011e).

(d) Gender equality has largely been achieved within education (Statistics South Africa, 2012).

(e) The number of children between the ages of 7–15 with disabilities attending school increased by more than 20% between 2002 and 2010. The rate of access for those aged 16–18 also increased from 51% in 2002 to 68% in 2010 (DBE, 2012a).

302. Despite this progress, the State remains concerned by the disproportionate exclusion of especially vulnerable children, including poor and rural children, children with disabilities, and older learners at the higher levels of education. For example, the DBE estimates that the number of children with disabilities of school-going age who are out of school could be as high as 480,036. (See annex II J for a comprehensive list of excluded children). As a result, numerous measures have been taken to promote inclusion and retention, measures which have brought the State closer to the realisation of concluding observation No. 34 and Millennium Development Goals to make primary education free for all children. The key interventions are reported hereunder.

303. Various policies and laws outlaw discrimination and guarantee children equal access to education and educational facilities. The Promotion of Equality and Prevention of Unfair Discrimination Act, South African Schools Act, Admission Policy for Ordinary Schools Act (1996), White Paper 6 on Inclusive Education (2001) and the National Policy on HIV/AIDS for Learners and Educators in Public Schools (1999) all prohibit the unfair exclusion of learners on the full range of internationally and nationally legally prohibited grounds.

304. The DBE has strengthened its framework for monitoring learner enrolment and attendance in order to address absenteeism by vulnerable learners. The National Policy on Learner Attendance (2010) obliges all schools to monitor attendance and intervene where learners are absent for extended periods. In addition, the regulations to the Social Assistance Act link receipt of the CSG to school enrolment and regular attendance.

305. Specific measures undertaken include pro-poor funding policies that ensure preferential funding for schools in the poorest income quintiles, the introduction of no-fee schools in the poorest quintiles, school-fee waivers for poor learners attending fee-paying schools, measures to address the cost of transport and uniforms, and a school-feeding programme for poor learners.

306. In addressing learner transport, the Department of Transport, in collaboration with local municipalities and national and provincial Departments of Education, developed the Non-Motorised Transport (NMT) policy. Transport challenges were addressed through the Shova Kalula Bicycle Project, the intention of which is to improve learners' mobility in urban and rural areas. However, distance remains a challenge for many learners, especially those living in poverty, in rural areas, children with disabilities and very young children. The DBE developed a draft Hostel Policy (2010), and is in discussions with the Department of Transport about the development of a national Learner Transport Policy.

307. Further measures include: (a) a policy framework and programme of action for identifying learners with disabilities and other learning barriers and for providing the necessary infrastructural, teaching and learning support to enable their full participation in education; (b) measures to prevent early pregnancies and provide support to ensure the return of girls who become pregnant; and (c) the systemic integration of care and support for teaching and learning for vulnerable children within the whole education system. (See annex II K for detailed discussion of relevant measures.)

7.2. The aims of education, with reference to quality of education and civic education

308. As stated in Part 7.1, education policies and programmes in the aftermath of apartheid focused on remedying the historical exclusion and under-resourcing of education for the majority of children in South Africa. However, while this increased access to education, the quality of educational inputs and outcomes did not receive the same degree of attention, and as a result South Africa has faced critical challenges.

309. South African learners perform poorly in international, regional and national literacy and numeracy assessments compared to learners in other developing countries. In the

national 2011 annual assessments the average score for Grade 3 learners was 28% for numeracy and 35% for literacy; Grade 6 learners fared little better (DBE, 2011f). In addition to the low literacy and numeracy rates in the early years of education, few learners pass their final school-year exams and even fewer, such subjects as mathematics. The number of learners who passed mathematics in the last of year of school decreased from 133,505 in 2009 to 104,033 in 2011 (The Presidency, DPME, 2012a).

310. Poor educational outcomes arise from a nexus of factors that include poor school management, low levels of district-tier support, low levels of teacher competence, high levels of teacher absenteeism, curriculum challenges, insufficient teaching and learning materials, low access to ECD, and variability across provinces and districts in their levels of funding and implementation of national policies.

311. The education sector has, in furtherance of concluding observation No. 34, made intensive reform interventions to address the underlying causes of poor education. These include: (a) improving access to, and the quality of, ECD services; (b) improving the content and quality of the curriculum to ensure it supports the realisation of the aims of education (c) introducing annual national learner assessments that use international benchmarks; (d) developing the Strategic Planning Framework for Teacher Education and Development in South Africa 2011–2025, which aims to improve the qualifications, competencies and numbers of teachers, especially in under-serviced areas; (e) ensuring that all children have adequate learning and teaching support materials; and (f) improving systems to ensure enhanced, standardised and equitable funding and implementation of national education policies in all provinces and districts. (See annex II L for details.)

312. These measures have already begun yielding positive results through a marked improvement in the pass rate of learners in Grade 12. That rate was low in 2009, standing at 60.6%, but in 2010 it exceeded 70% and climbed higher in 2011 to nearly 73%. In addition, the percentage of Grade 12 learners qualifying for university entrance increased from 23.5% in 2010 to 24.3% in 2011, which bodes well for achieving the target of 175,000 learners by 2014 (DBE, 2011a). It must be noted that there are variations in the rate of improvements in pass rates across provinces and income quintiles and that Grade 12 pass rates are not the only measure of quality of education. A number of other indicators continue to reflect poor outcomes and point to the fact that there is still work to be done to translate the policy and programmatic reforms reported on into meaningful improvements to the quality of education. For example, South Africa continues to battle repetition rates that are higher than in other developing countries. Repetition rates in Grades 1–3 are approximately 7%, but substantially higher (between 16–17%) in Grades 10 and 11 (DBE, 2011).

7.3. Human rights and civic education

313. The education system has numerous mechanisms to promote children's knowledge of, and respect for, their rights and those of others. These include: (a) the establishment of a dedicated Social Cohesion and Equity in Education Directorate within the DBE to promote mainstreaming of human rights teaching and practices in the system; (b) the inclusion of human rights education in the curriculum; (c) the development of an Integrated Strategy on HIV and AIDS 2012–2016 to ensure a comprehensive and integrated response to HIV and AIDS throughout the education system; (d) practical curricular, training and awareness-raising interventions to address gender-based barriers and violence in schools; and (e) the establishment of peer-education groups in schools. (A full list of measures is documented in annex II M.)

7.4. Cultural and linguistic rights of children

314. The Constitution recognises and protects the right of all people, including, in furtherance of concluding observation No. 41, minority groups, to practise their religion or culture. This means no public institution, including schools, may exclude or discriminate against learners on the grounds of their religion or culture; it also means that schools may observe religious practices. In both instances, the right is subject to the limitation that such observance may not contravene any other rights in the Bill of Rights. The Constitutional Court has confirmed that the right cannot be used "to shield practices which offend the Bill of Rights" (*Christian Education South Africa v. Minister of Education* 2000 (4) SA 757 (CC)). The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities is an independent institution established in terms of a 2002 Act of the same name to protect and promote these rights. Its role is "to promote respect for and further the protection of the rights of cultural, religious and linguistic communities on the basis of equality, non-discrimination and free association, and to promote the right of communities to develop their historically diminished heritage". The Constitutional Court has on a number of occasions protected these rights. For example, in the case of *MEC Education KwaZulu-Natal v. Pillay* (2007) ZACC 21, the Court confirmed the religious and cultural rights of a Hindu girl to wear a nose stud-ring to school.

315. The South African Schools Act has given effect to these rights through the provision that schools may observe religious practices, subject to the proviso that it is done equitably and no person (be it learner or teacher) is forced to participate. The National Policy on Religion and Education (2003) assists schools in developing constitutionally-compliant religious practices and education.

316. The State recognises that the right to use, and be taught in, one's home language is critical to maintaining the cultural integrity and the right of equal access to education of indigenous children, who in South Africa make up the majority rather than minority. Historically, the minority languages of English and Afrikaans were used as instruments of oppression and given priority as the country's official languages. This resulted in the underdevelopment of indigenous African languages in education settings. Consequently, language remains a barrier to access, and success, in education in two respects: first, African and other languages have not been sufficiently developed as languages of teaching and learning, and, second, the majority of learners enter an education system dominated by English and Afrikaans without being fully proficient in them. The education sector has developed a number of policies to ensure equity of access to education, equality of opportunities for learning, and optimal educational outcomes for non-English- or Afrikaans-speaking children. These include:

(a) The Language in Education Policy (LiEP) (1997) and National Curriculum Statements (2011) require that learners be taught in their home language in the Foundation Phase. They also provide that children have the right to be taught in their language of choice where it is reasonably practicable. As a result, almost 80% of Foundation Phase learners are instructed in their home languages (DBE, 2010c).

(b) The Education Laws Amendment Act 2011 strengthened protection of the use of official languages by providing that the governing body of a public school must ensure that (a) there is no unfair discrimination in respect of any official languages that are offered as subject options, and (b) the first additional language and any other official language is offered at the same level (Section 6B, South African Schools Act, 1996).

317. The LiEP has faced several implementation challenges, including difficulties in transitioning from Grade 3 (which can be taught in a non-English language) to Grade 4 (which is taught in English); insufficient home-language teachers; and insufficient materials in the relevant languages. The Minister has responded with measures such as compelling

schools to offer English as an additional language in the Foundation Phase so that all Grade 3 learners can cope with the transition to Grade 4.

318. The Language Policy for Higher Education requires all higher education institutions to develop their own language policies that promote multilingualism and enhance equity and access in higher education. In addition, an advisory panel has been established on the use of African languages at post-school level.

7.5. Rest, play, leisure, recreation and cultural and artistic activities

319. Section 6(1)(e) of the Children's Act expressly recognises the "child's need for development and to engage in play and other recreational activities appropriate to the child's age" as a fundamental principle informing the implementation of the Act.

320. The realisation of this right is dependent on the provision, by local government and other role-players, of adequate facilities and opportunities for children to play and engage in recreational and cultural activities. Information from municipalities indicates significant inequities in the availability of, and access to, these facilities. Children in wealthier urban areas are generally served by better-resourced, and more effective local governments and enjoy better access to facilities compared to their poor urban and rural counterparts, who are generally served by impoverished and poorly managed municipalities.

321. Efforts are under way to address the associated concern raised by the Committee in its concluding observation No. 34 for an improvement in the enjoyment of the right to recreation by all, especially children in black communities. These measures include the following:

(a) The South African Local Government Association (SALGA) has initiated a programme to aid local governments to mainstream and prioritise children's rights within their existing mandates, such as town planning, and provide for and maintain public parks and other recreational facilities.

(b) In the interim, the most systemic mechanism for ensuring equitable access to recreational and cultural activities is the public education system. The Department of Sport and Recreation (DOSR) and the DBE have developed a national pro-poor Integrated School Sport Framework (2011) with the objective of regulating access to, and the delivery of, school sport for all learners, irrespective of their ability, based on the principles of equity and access. The DBE has also published a Draft School Sport Policy which provides an enabling framework for the implementation of the Strategy objectives at public schools. These initiatives have received the highest priority within the DOSR, which has increased its 2012 school sport budget from R27,3-million to R42,6-million.

(c) The Department of Arts and Culture (DAC) has implemented a programme for the provision of internet facilities at community libraries, with priority given to poor and under-resourced communities.

Part 8: Special protection measures

8.1. Children seeking refugee protection, unaccompanied asylum-seeking children, and others

322. In accordance with concluding observation No. 35, South Africa has committed itself to the protection of refugees by signing the Convention relating to the Status of Refugees and the Organization of African Unity Convention governing the specific aspects of refugee problems in Africa, and national efforts to protect refugees and refugee children are expressed in the South African Bill of Rights. South Africa has also incorporated its international obligations in the South African Refugees Act (1998) and Immigration Act

(2002). Under these Acts, refugee children are protected from refoulement, discrimination and illegal detention; in addition, they enjoy full right of access to basic health care, primary education services, social security, as well as being protected by prohibitions against child labour. The law provides that immigration control should follow the highest applicable standards of human rights protection. To this effect the Refugee Amendment Act (2011) and Immigration Amendment Act (2011) have been promulgated.

323. Once children enter the country, the DHA has standard procedures for dealing with unaccompanied asylum-seeking children at Refugee Reception Offices, including assistance with enabling documents.

324. Challenges in the service-response to refugee and asylum-seeking children include a complex status- determination procedure and, in some cases, resistance from officials in providing the required support; difficulties are also experienced in accessing enabling documents and hence, education, health, and social security services. As previously stated in Part 4.1, the DHA has amended its laws and procedures to allow for the issue of a standardised birth certificate for refugee children born in South Africa to ensure their rights to a name and access to services. The DSD, DHS, the South African Social Security Agency and NGOs are working together to improve knowledge and implementation of a special procedure which allows the use of alternative documents to access social security grants until formal documentation is provided by the DHA. According to inputs from provincial consultations, systems for the tracking of children and standardisation of reporting tools need strengthening.

325. A recent development in the management of ..fugees has been the re-constitution of the legally-mandated Immigration Advisory Board (IAB). The Board offers the opportunity for greater coordination of migration issues.

8.2. Children in armed conflict

326. As previously stated in Parts 1 and 2, in alignment with the OPAC, the Defence Act changed the minimum age of recruitment into the National Defence Force from 17 to 18.

327. Although children are not exposed to armed conflict, levels of violence (including gun-related violence and gangsterism) among youth in South African communities remain high.

8.3 Children under exploitation, including physical and psychological recovery and social reintegration

328. The Children's Act provides a comprehensive framework for the protection of children from all forms of exploitation. This legislation also responds to South Africa's obligations under the OPSC. Section 141 of the Act states that no person may use, procure or offer a child for slavery, commercial sexual exploitation, trafficking, forced labour, or for any offence in Schedules 1 or 2 of the Criminal Procedure Act (1977). The Act obligates a social worker or social service professional to report such instances to a police official.

8.4. Child labour

329. In furtherance of concluding observation No. 37, information on child labour is collected and analysed by the Department of Labour and Statistics South Africa. According to the 2010 Survey of Activities of Young People (Statistics South Africa), almost 1 in 4 children is involved in economic activity, with 41.6% of these children being exposed as a result to at least one hazardous condition. The survey found that the proportion of black children engaged in economic activities is higher (27.9%) than that of Indian/Asian (4.2%), coloured (2.7%) and white children (1.8%). The likelihood of involvement in economic

activities increases with age. Fifteen percent of children aged 7–10 years are involved in such activities, compared to 29% of children aged 11–14 years and 33% aged 15–17.

330. Further to concluding observation No. 37, South Africa ratified the Worst Forms of Child Labour Convention in 2000, and in 2010 signed the ILO's Roadmap for Achieving the Elimination of the Worst Forms of Child Labour by 2016.

331. The Child Labour Programme of Action (CLPA) is South Africa's multi-sectoral roadmap towards the prevention, reduction and eventual elimination of child labour. First adopted in 2003, the CLPA sets out specific actions to be taken and assigns relevant responsibilities to participating institutions. The second phase of the CLPA covers the period 2008/09 to 2012/13, the third phase, the period April 2013 to March 2016. Government has performed effectively in the areas of awareness-raising, training, and development of materials, as well as in respect of some legislation and regulations.

332. The action steps of the CLPA are incorporated in the development of the Child Exploitation Strategy and the Guidelines for the Prevention of and Response to Child Exploitation. These documents set out good-practice standards for practitioners in accordance with international, regional and national legal frameworks.

333. Several other policies and laws address and regulate child labour, including the Children's Act, the Regulations on the Worst Forms of Child Labour (2010), and the farmworkers' sectoral determination, which affords special protection to farmworkers between the ages of 15 and 18. The Basic Conditions of Employment Amendment Bill (2010) proposes expanded protection for children, including those who are working legally. The amendments aim to align the provisions of the principal Act with the Constitution and increase the term of imprisonment from 3 to 6 years for violations (see annex II N for more information).

334. While South Africa has made good progress in creating a regulatory framework to protect children from the harmful effects of child labour, the findings of the recent Statistics South Africa report (2010) point to a need for greater emphasis on ensuring that the framework is effectively implemented.

8.5. Use of children in illicit production and trafficking of drugs

335. See Part 6.8, paras. 226 and 227.

336. Provincial consultations indicated that in some areas the use of children in drug trafficking is a matter of urgent concern requiring more initiatives specifically geared to addressing the problem.

8.6. Sexual exploitation and sexual abuse

337. Earlier sections (Part 5.10) describe efforts to prevent child sexual abuse and ensure access to services and justice for those who are abused and/or exploited. Additional measures undertaken pursuant to, inter alia, concluding observation No. 39, in relation to child sexual exploitation and pornography are dealt with here.

338. The Films and Publications Act (2004) creates a regulatory framework for films and publications. The Act defines child pornography broadly and prohibits its creation, possession and distribution. Failure to report knowledge or suspicion of the commission of child pornography is a criminal offence. Enforcement of the Act is supported by the Film and Publication Board (FPB), which works with law enforcement agencies and other organisations involved in child protection issues to combat child pornography. (See annex II N for more information on the FPB.)

339. The South African Cellular Operators Association Code of Good Practice (SA Cellular Code) and the Wireless Application Service Providers' Association Code of Conduct (WASPA Code) oblige mobile operators and their content providers to adhere to rules and age limits imposed by the FPB in the publication of content.

340. Chapter 3 of the Sexual Offences Act deals expressly with sexual offences against children, especially rape, sexual abuse and exploitation, including sexual grooming, child pornography and child prostitution. The Act establishes severe criminal sanctions for those who are in any way involved in the prostitution of a child, and aims to provide the affected child with the necessary care and protection. Although a child is legally allowed to consent to a sexual act (which includes touching or penetration) from the age of 16, a consensual sexual act with a child is criminalised as exploitation of the child where such an act is accompanied by a reward/payment. Section 61 of the Sexual Offences Act makes provision for extra-territorial jurisdiction in sexual-offences matters, while Section 291 of the Children's Act provides for the extra-territorial application of child trafficking offences. Section 30A of the Films and Publications Act similarly provides for the extra-territorial application of offences under the Act.

341. Several departments (DSD; DOJCD; NPA; SAPS) provide training on issues of child exploitation to combat commercial sexual exploitation, sale, trafficking and abduction of children. The National Instruction on Sexual Offences instructs police officials on how to deal with a victim of a sexual offence in accordance with the Sexual Offences Act. It also guides police officials on services available to victims, including child victims of sexual offences. (See tables 7 and 8 in statistical annex II for more information on training.)

342. A Code of Conduct has been signed between Fair Trade Tourism SA (FTTSA) and the DSD for the Protection of Children from Sexual Exploitation in Travel and Tourism. The code covers the hotel industry, places of entertainment, tourism and related sectors.

343. South Africa also participated in drafting and signing the Convention on Cybercrime in 2001. The Convention provides measures to assist police to investigate computer-related crimes, including the production, dissemination and possession of child pornography.

8.7. Sale, trafficking and abduction of children

344. Numerous measures were taken to strengthen the law and processes regarding the sale, trafficking and abduction of children, as required by concluding observation No. 40. For more detailed information, the Committee is referred to the First Country report of South Africa on the OPSC, submitted at the same time as the present report. Only certain key developments are described hereunder.

345. The legal measures dealing with trafficking in persons are split between the Sexual Offences Act and Children's Act. The latter defines child trafficking as the recruitment, sale, supply, transportation, transfer, harboring or receipt of children, within or across the borders of the Republic. The Sexual Offences Amendment Act includes transitional provisions in respect of trafficking of adults and children for sexual purposes. Limitations within current law that need to be addressed include the lack of provision for child trafficking more broadly and the lack of provision for psychological and medical assistance, reintegration or repatriation for victims. Moreover, although the law criminalises trafficking, it does not provide specific sanctions for the commission of this crime.

346. The Prevention and Combating of Trafficking in Persons Bill (2010) aims to address these gaps and to prevent and combat the trafficking in persons within and/or outside South Africa's borders. It criminalises trafficking in persons and associated offences, and contains measures to protect and assist victims of trafficking. The Bill has been approved by the Portfolio Committee and will be considered by the National Council of Provinces.

347. At the level of implementation, there is an Inter–Sectoral Task Team on Human Trafficking (ISTTHT) led by the National Prosecuting Authority. This task team has been instrumental in raising awareness on human trafficking and led to the establishment of inter-departmental Provincial Task Teams to address human-trafficking cases collaboratively. In certain provinces such as KZN, the Provincial task Teams have made huge strides and achieved operational success against major traffickers. Human trafficking has also been declared one of the operational priorities of the DPCI (Directorate for Priority Crime Investigation). There are currently no reliable national data on the extent of trafficking in children in South Africa or the type of exploitation for which such children are trafficked. The ISTTHT is mandated to improve data collection and analysis to address this gap.

348. In October 2011 the DPCI established a Human Trafficking Forum to complement the ISTTHT, with national and provincial coordinators. In addition, the DPCI in June 2011 established a Human Trafficking Desk within its Priority Crime Management Centre. Provincial Human Trafficking Coordinators are also an integral part of the Provincial Human Trafficking Task Teams. Through the effort of these coordinators, cases are being prosecuted and assets of suspected trafficking networks have been confiscated. Awareness campaigns targeting law enforcement agencies have also led to improvements in the management of victims of human trafficking. The DOJCD has developed the draft National Policy Framework (NPF) on Trafficking in Persons to ensure structured, coordinated and victim-centred service systems.

8.8. Children in street situations

349. According to the DSD, an estimated 12,000 children were living and working on the streets in 2011. In terms of the Children's Act (2005), a child who lives or works on the streets or begs for a living is considered a child in need of care and protection, and the Act makes provision for drop-in centres and child and youth care centres for the reception and care of such children.

350. Children living and working on the streets face a myriad of problems, including victimisation, abuse and exploitation, health issues, drug and alcohol addiction, and psychological deprivation. A National Strategy for Children Living and Working on the Streets (undated) was developed to address these challenges, take forward the provisions of the Children's Act, and guide different stakeholders at national, provincial and local levels on the development of appropriate programmes. The strategy includes several interventions aimed at: (a) preventing children from coming to the streets through support for at-risk families; (b) early intervention for children who are new to the streets (this includes provision for restorative justice for those young persons who have committed minor offences whilst living on the streets); (c) providing protection services (including health care, education, counseling, assistance with enabling documents and shelter); and (d) reintegration with family or placement, where necessary, in alternative care. The strategy outlines the roles of various stakeholders in supporting implementation.

8.9. Minority groups

351. Measures taken in furtherance of concluding observation No. 41 to prevent discrimination against minority groups and ensure their participatory and cultural-linguistic rights are dealt with in Parts 3.1 (para. 61), 4.2 (para. 94) and 7.4 (para. 280), as well as annex II E.

8.10. Children in conflict with the law, victims and witnesses

352. In compliance with the recommendations made in relation to concluding observation No. 42, the Child Justice Act gives effect to the rights identified in articles 37(b–d) and 40

in the CRC, establishes a criminal justice system appropriate to the needs and protection of children, and entrenches the principles of restorative justice.

353. With regard to criminal capacity, the Committee is referred to the detailed discussion in Part 2.10.

354. In response to the CRC's call for "specialized and separate courts" in matters relating to children, existing courts are being adapted and the Children's Act establishes every magistrate's court as a Children's Court. (See para. 177 for measures to make courts child-friendly.)

355. In line with concluding observation No. 42, the Child Justice Act contains provisions to encourage the avoidance of arrest; moreover, where children are arrested, preference must be given to the least restrictive option possible in the circumstances. In addition, internal directives of the SAPS emphasise the right of the child to have a parent or guardian present in all interactions with the police, and the Act encourages the release of a child as soon as possible into the care of his or her parents, guardians or other suitable adults. An overarching principle requires that all procedures should be conducted and completed without unreasonable delay.

356. Furthermore, under the Child Justice Act, all children alleged to have committed a crime must be assessed by a probation officer before appearing in court and within 48 hours of the arrest. The court must consider the probation officer's assessment report and relevant factors before making an appropriate order for the future management of the child's case, based on the child's individual needs. The preliminary inquiry allows for child participation and a neutral chair (namely, a presiding officer) to ensure a power balance between the interests of the State and the interests of the child. Three two-day Preliminary Inquiries Workshops were held in 2011 with magistrates on the development of a standard form and proceedings for Preliminary Inquiries. Legal Aid SA practitioners are available at dedicated Preliminary Inquiry courts.

357. Regarding the sentencing of children, the Child Justice Act aims to divert cases out of the criminal justice system and into programmes that reinforce children's respect for human rights and allow children to be held accountable for their actions without obtaining a criminal record. To support implementation of the Act, the DSD drafted a policy Framework on the Accreditation of Diversion Services in South Africa, and in 2010/2011 an accreditation process was devised and implemented. This process gave rise to a published list of accredited service providers which will be regularly updated. The DSD has also initiated therapeutic programmes for children in child and youth care centres who have been diverted from the criminal justice system or who are awaiting trial.

358. For those children found guilty, the Act provides various sentencing options to promote their effective rehabilitation and reintegration as well as to minimise the potential for re-offending. Due to these initiatives, the number of sentenced children in prisons decreased from 536 in April 2011 to 51 in December 2011. However, provincial consultations have indicated that there are insufficient secure-care facilities suitable for children who have committed offences.

359. With regard to the removal of a child's criminal record upon reaching the age of 18, the Committee is referred to Part 4.5, para. 108.

360. With regard to physical and psychological recovery and social reintegration (article 39), the DCS delivers a comprehensive and multi-disciplinary service to children incarcerated in correctional centres. This includes health care and social work services as well as psychological, spiritual and moral development services and programmes. The services encompass education, too. Children deprived of their liberty are equally entitled to basic education, and section 19(1) of the Correctional Services Act provides that every

child inmate must have access to educational programmes. The DCS provides awaiting-trial children with support with their studies through the administration of examinations, submission of assignments and communications with schools. However, the realisation of this right is beset by several challenges. A survey in 2011 of 41 Correctional Services facilities found that, with the exception of a few prisons, unsentenced awaiting-trial children who spend an average of 70 days in detention are not provided with access to any educational services. In addition, not all sentenced children have access to education (University of the Western Cape, 2012).

361. With regard to the protection of child witnesses, the Domestic Violence Act (1998) protects against harassment and stalking cases where the complainant and the respondent are in a domestic relationship. The Protection from Harassment Bill (2010) will extend protection to cases of harassment where there is no domestic relationship between the victim and perpetrator; the Bill includes protective provisions to children who can be complainants, persons related to a complainant, or child witnesses.

362. Basic and in-service training has been provided to representatives from, inter alia, the DCS, SAPS, Legal Aid South Africa, probation and social services practitioners, prosecutors and provincial coordinators to support implementation of the Child Justice Act. (See annex II N for a detailed list).

363. Additional resources have been allocated for implementation of the Child Justice Act. In particular, the number of child justice clerks increased from 111 in 2010/11 to 128 in 2011/12, and the number of legal aid attorneys employed by Legal Aid SA to deal with Child Justice matters increased from 1,452 in 2010/11 to 1,718 in 2011/12. Provincial Child Justice Forums (PCJF) were established in all nine provinces, and the Child Justice Information Management Task Team (CJIMTT) was formed to improve data collection across departments to monitor implementation. The Medium Term Strategic Framework (MTSF) provides for the establishment of two One-Stop Child Justice Centres per financial year. The first two were established in North West and Eastern Cape Provinces in 2011/12.

Annex I

Statistical information

A. General measures of implementation

Table 2
Expenditure on social grants (SA RAND)

Expenditure on social grants	*2003*	*2008 (R)*	*2012 (R)*
Child Support Grant	Not Available	19,625,983	34,319,490
Care Dependency Grant		1,132,102	1,736,424
Foster Care Grant		3,414,315	5,010,885
Social Relief of Distress Benefit		0	185,298

Source: Department of Social Development, Budget Office.

Table 3
Expenditure on health care (not disaggregated for children) (SA RAND)

Expenditure on health care	*2003*	*2008*	*2012*
Administration	1,613,408	2,530,419	2,996,144
District Health Services	14,589,830	31,477,903	51,997,500
Emergency Medical Services	1,283,004	2,899,386	4,884,416
Provincial Hospital Services	9,907,350	17,475,757	26,292,585
Central Hospital Services	6,371,304	11,028,199	17,791,449
Health Sciences and Training	1,078,201	2,542,940	3,901,380
Health Care Support Services	562,799	1,381,219	1,997,536
Health Facilities Management	2,042,845	5,562,438	7,968,401

Source: National Treasury Provincial Database.

Table 4
Expenditure on early childhood development (SA RAND)

Expenditure on early childhood care and development	*2007/08 '000*	*2011/12 '000*
Early childhood care and development (0–4) DSD Budget	766,022	2,910,768
Early childhood care and development (Grade R)	691,206	3,591,219

Source: Treasury and DBE Provincial Budgets and Expenditure Review: 2005/06–2011/12.

Table 5
Expenditure on basic education (SA RAND)

Expenditure on education	*2002*	*2008*	*2009*	*2012/13*
Departmental budgets for basic and higher education	147.2 billion			207 billion
Combined national and provincial basic education budgets	59.8 billion			152.1 billion
Special education/inclusive education MTEF 2008 and MTEF to be used as a baseline by provinces for inclusive education		1.5 billion (MTEF)	300 million (MTEF)	Plus 400 thousand inclusive education teacher-development

Source: Treasury and Department of Basic Education Provincial Budgets and Expenditure Review: 2005/06–2011/12.

Table 6
Expenditure on child protection (SA RAND)

Expenditure on child protection	*2003*	*2008*	*2012*
Child Care and Protection (National DSD)	504,528	3,875,358	6,423,831
Child Care and Protection (Provincial DSD)	731,832	1,849,531	3,063,476

Source: Department of Social Development.

Table 7
Training provided to judicial, law enforcement and related personnel

Personnel	*No. trained*	*Year(s)*	*Training provided on*
South African Police Services	32,600	Since 2010	Child Justice Act and Children's Act
Prosecutors	912	Since 2009	Child Justice Act
Judiciary, probation officers, SAPS, Legal Aid, DOE, DHA, DOCS	306	2011	Child Justice Act
DOJCD Child Justice Clerks	891	Since 2010	Child Justice Act
Probation and social service practitioners	345	2011	Integrated Social Crime Prevention Strategy
Practitioners	285	2011	Probation Guidelines
Master trainers	205	2011	Therapeutic programmes
Practitioners	231	2011	Reception, assessment and referral in the child justice system
Prosecutors	993	2008-2012	Sexual Offences Act
Doctors and Nurses	529	2007-2010	Sexual Offences Act
South African Police Officials	5233	2007-2010	Sexual Offences Act
Intermediaries	216	2007-2010	Sexual Offences Act

Personnel	*No. trained*	*Year(s)*	*Training provided on*
Magistrates	402	2007-2010	Sexual Offences Act
Clerks	424	2009/10	Sexual Offences Act
Delegates from Thuthuzela Centres	483	Since 2011	Integrated Training Programme on Sexual Offences
Prosecutors	352	Since 2010	Maintenance Act
Prosecutors	213	Since 2010	Domestic Violence Act
Clerks of Domestic Violence	455	Since 2010	Domestic Violence Act
Prosecutors	422	Since 2010	Children's Act
Family Advocates, Family Assistants, Family Counsellors, Legal Aid Practitioners, Traditional Leaders, State Attorneys and Family Law Clerks	117	2010	Children's Act
Clerks of the Children's Court	582	Since 2010	Children's Act
Judiciary (Magistrates)	195	Since 2009	Children's Act
Correctional Officers & Social Workers	257	Since 2010	Child Justice Act

Source: Departmental reports submitted to DWCPD for UNCRC report.

Table 8
Training provided to other personnel

Other professional categories	*No. trained*	*Year(s)*	*Training provided on*
Teachers			Data not available
Health care workers			Data not available
Social workers	2,000	2010/11	Child Protection System
Social workers	2,000	2011/12	Children's Act
Social workers	1,000	2012/13	Risk Assessment Tool

Source: Department of Social Development.

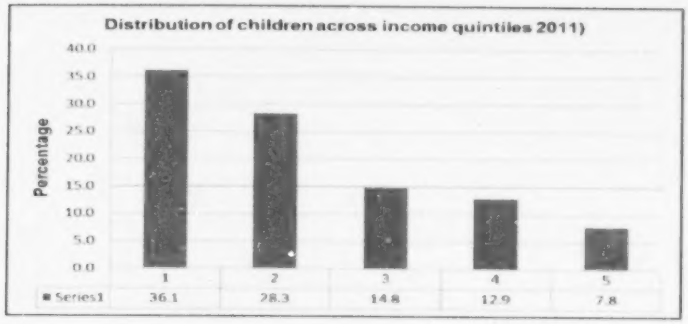
B. Definition of the child

Table 9
Child population disaggregated by gender and race

Year	*No. children 0-17 years*	*Male (%)*	*Female (%)*	*Black African (%)*	*Coloured (%)*	*Indian/Asian (%)*	*White (%)*
2003	18,596,778	50.4	49.6	84.1	8.0	1.9	6.0
2008	18,678,949	50.6	49.4	84.6	8.1	1.9	5.3
2011	18,541,347	50.2	49.8	84.7	8.1	2.0	5.2

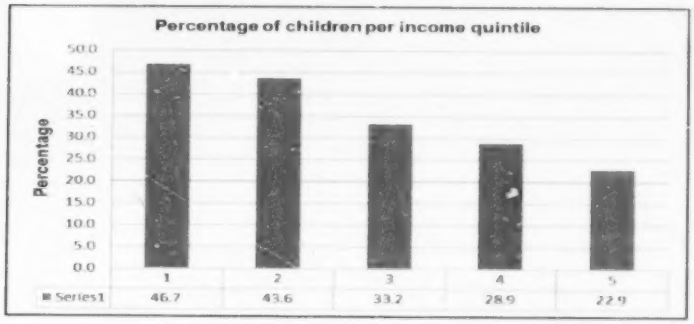
Source: Statistics South Africa, General Household Surveys 2003, 2008, 2011.

Figure 1
Distribution of children across income quintiles



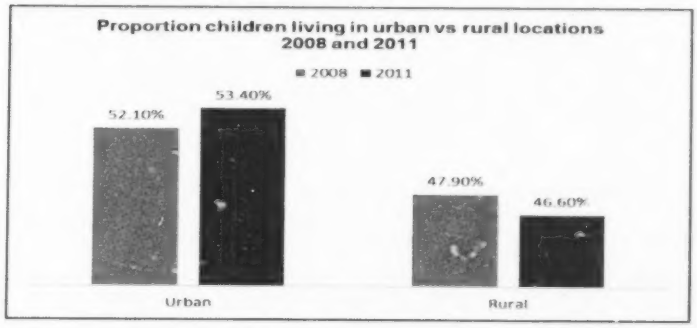
Source: Statistics South Africa, General Household Survey 2011.

Figure 2
Percentage of children per income quintile



Source: Statistics South Africa, General Household Survey 2011.

Figure 3
Child population disaggregated by geotype



Source: Statistics South Africa, General Household Surveys 2008, 2011.

Table 10
Number of registered civil marriages of children by age and gender

	2003			2008		
Age	*Males*	*Females*	***Total***	*Males*	*Females*	***Total***
13 years				0	1	**1**
14 years				2	4	**6**
15 years				2	25	**27**
16 years	5	132	**137**	3	120	**123**
17 years	16	394	**410**	8	359	**367**
Total	**21**	**526**	**547**	**15**	**509**	**524**
% of all civil marriages registered	0.01	0.29	**0.31**	0.01	0.27	**0.28**

Source: Statistics South Africa, Marriages and Divorces, 2004 and 2009.

C. General principles

Table 11
Number of children's deaths due to selected causes of death, by age (2008)

Underlying causes of death	*0*	*1-4*	*5-9*	*10-14*	*15-17*	***Total***	***Total deaths due to cause***	***% total deaths***
Tuberculosis (A15-A19)	699	7,766	514	394	388	**2,771**	**75,238**	**3.7**
Human immunodeficiency virus [HIV] disease (B20-B24)	521	303	133	74	63	**1,094**	**15,172**	**7.2**
Sequelae of infectious and parasitic diseases (B90-B94)	0	1	2	1	0	**4**	**604**	**0.7**
Acute upper respiratory infections (J00-J06)	34	24	9	3	4	**74**	**246**	**30.1**
Transport accidents (V01-V99)	26	170	246	184	197	**823**	**5,816**	**14.2**
Other external causes of accidental injury (W00-X59)	1,001	1,227	782	754	1,029	**4,793**	**34,189**	**14.0**
Intentional self-harm/suicide (X60-X84)	0	0	0	7	36	**43**	**443**	**9.7**
Assault (X85-Y09)	16	20	8	37	242	**323**	**5,520**	**5.9**
Event of undetermined intent (Y10-Y34)	30	173	113	107	256	**679**	**6,535**	**10.4**
Complications of medical and surgical care (Y40-Y84)	31	12	4	12	16	**75**	**737**	**10.2**
Sequelae of external causes of morbidity and mortality (Y85-Y89)	0	0	1	0	1	**2**	**60**	**3.3**
Polio (A80)	0	1	0	0	0	**1**	**11**	**9.1**
Malaria (B50-B54)	2	7	2	5	0	**16**	**1,320**	**1.2**
Hepatitis (K75)	13	11	13	2	10	**49**	**2,900**	**1.7**

Source: Statistics South Africa. 2010. Mortality and Causes of Death in South Africa: Finding from Death Notification, Stats SA, Pretoria.

Table 12
Number of children's deaths due to selected causes of death, by gender (2008)

Underlying causes of death	*Male*	*Female*	*Unspecified*	***Total***
Tuberculosis (A15-A19)	1,342	1,422	7	**2,771**
Human immunodeficiency virus [HIV] disease (B20-B24)	536	553	5	**1,094**
Sequelae of infectious and parasitic diseases (B90-B94)	2	2	0	**4**
Acute upper respiratory infections (J00-J06)	43	31	0	**74**
Transport accidents (V01-V99)	476	345	2	**823**
Other external causes of accidental injury (W00-X59)	2,958	1,823	12	**4,793**
Intentional self-harm (X60-X84)	22	21	0	**43**
Assault (X85-Y09)	267	55	1	**323**
Event of undetermined intent (Y10-Y34)	407	272	0	**679**
Complications of medical and surgical care (Y40-Y84)	46	28	1	**75**
Sequelae of external causes of morbidity and mortality (Y85-Y89)	2	0	0	**2**
Polio (A80)	1	0	0	**1**
Malaria (B50-B54)	8	7	1	**16**
Hepatitis (K75)	33	16	0	**49**

Source: Statistics South Africa. 2010. Mortality and Causes of Death in South Africa: Finding from Death Notification. Stats SA, Pretoria.

Table 13
Number of children's deaths due to selected causes of death, by province (2008) (^Less than 5 deaths recorded)

Underlying causes of death	*WC*	*EC*	*NC*	*FS*	*KZN*	*NW*	*GP*	*MP*	*L*	***Total***
Tuberculosis (A15-A19)	102	410	64	233	904	213	340	273	229	**2,771**
Human immunodeficiency virus [HIV] disease (B20-B24)	108	149	38	120	338	63	182	53	43	**1,094**
Sequelae of infectious and parasitic diseases (B90-B94)	0	0	*	0	*	0	*	0	0	**4**
Acute upper respiratory infections (J00-J06)	*	7	*	13	6	14	21	*	6	**74**
Transport accidents (V01-V99)	63	131	39	60	163	57	81	68	161	**823**
Other external causes of accidental injury (W00-X59)	524	748	114	274	1,119	279	1,019	347	367	**4,793**
Intentional self-harm (X60-X84)	*	6	9	*	16	0	0	7	*	**43**
Assault (X85-Y09)	65	92	13	20	50	24	38	5	16	**323**
Event of undetermined intent (Y10-Y34)	51	126	11	32	178	87	132	16	46	**679**
Complications of medical and surgical care (Y40-Y84)	*	15	0	7	25	8	9	*	6	**75**
Sequelae of external causes of morbidity and mortality (Y85-Y89)	0	0	0	0	*	0	0	*	0	**2**
Polio (A80)	0	0	0	0	0	0	*	0	0	**1**
Malaria (B50-B54)	0	*	0	0	*	*	6	*	*	**16**
Hepatitis (K75)	*	14	*	*	10	*	9	*	5	**49**

Source: Statistics South Africa. 2010. Mortality and Causes of Death in South Africa: Findings from Death Notification. Pretoria.

Table 14
Child and youth organisations or associations

	Number of members		
Child and youth organisations or associations	*2003*	*2008*	*2012*
Data not available			
Schools with independent student councils	Most schools have student representative councils		

Table 15
Number of children heard under judicial and administrative proceedings

	1 April 2010 – 31 March 2011	*1 April 2011 – 31 March 2012*
Region	*Preliminary Inquiries held*	*Preliminary Inquiries held*
Eastern Cape	1,445	4,335
Free State	808	1,979
Gauteng	1,463	2,020
KwaZulu-Natal	3,843	4,724
Limpopo	422	877
Mpumalanga	698	1,062
North West	691	1,437
Northern Cape	307	664
Western Cape	4,794	5,715
Grand Total	**14,471**	**22,813**

Source: DOJCD (statistics relate to Child Justice Act 75 of 2008, effective from 1 April 2010).

Table 16
Children's Court cases opened under the Children's Act

Region	*1 July 2010 – 31 March 2011*	*1 April 2011 – 31 March 2012*
	Children's Court cases opened	*Children's Court cases opened*
Eastern Cape	11,947	15,384
Free State	2,718	3,719
Gauteng	6,234	9,635
KwaZulu-Natal	22,375	23,426
Limpopo	7,606	9,919
Mpumalanga	4,591	7,234
North West	6,679	8,941
Northern Cape	1,840	1,531
Western Cape	4,566	6,672
Grand Total	**68,556**	**86,461**

Source: DOJCD (note: these data were collected only from 1 July 2010).

D. Civil Rights and Freedoms

Table 17
Number of births registered by year of occurrence (2003 and 2010)

		Year of registration									
Year of birth	***Total births***	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*	*2012*
2003	**912,822**	621,887 (68%)	165,662	43,404	34,601	20,009	14,085	8,322	4,852		
2008	**1,047,581**						915,674 (87%)	101,743	30,164		

Source: Department of Home Affairs.

Table 18
Registration for births 2010–2011 and 2011–2012

	Registration of births		
Year of birth	*0-30 days*	*31 days - 1 year*	*2 - 14 years*
2010/2011	487,105 (45%)	527,599 (47%)	93,238 (9%)
2011/2012	574,192 (51%)	435,453 (39%)	82,722 (9%)

Source: Department of Home Affairs.

Data collected in 2003 and 2008 were for births registered within one year. No comparable data were collected for births registered within 30 days in this time period, but they are available in later years (2010/11–2011/12).

Table 19
Birth registrations by province (2010/2011)

Province	*0-30 days*	*31 days - 1 year*	*2 - 14 years*	*Sub-total*
Eastern Cape	62,100	60,905	13,584	136,589
Free State	36,069	20,328	4,767	61,164
Gauteng	131,104	81,666	11,400	224,170
Limpopo	47,906	78,760	7,756	134,422
KwaZulu-Natal	95,391	116,204	33,773	245,368
Mpumalanga	24,284	87,021	8,883	128,180
North West	27,243	34,314	5,768	67,325
Northern Cape	14,463	9,068	1,539	25,070
Western Cape	58,545	39,333	5,768	103,646
Total	**497,105**	**527,599**	**93,238**	**1,125,934**
Percentages	45%	47%	9%	100%

Source: Department of Home Affairs.

Table 20
Birth registrations by province (2011/2012)

Province	*0-30 days*	*31 days - 1 year*	*2 - 14 years*	*Sub-total*
Eastern Cape	78,319	54,441	11,029	143,789
Free State	37,789	15,896	4,731	58,416
Gauteng	153,208	65,926	15,089	234,223
Limpopo	57,432	74,643	7,192	139,267
KwaZulu-Natal	97,887	104,600	25,802	228,289
Mpumalanga	30,276	45,068	7,202	153,842
North West	32,535	33,292	5,469	71,296
Northern Cape	15,546	8,352	1,394	25,292
Western Cape	71,200	33,235	4,814	109,249
Total	**574,192**	**435,453**	**82,722**	**1,163,663**
Percentages	51%	39%	9%	100%

Source: Department of Home Affairs.

Table 21
Proportion of schools per province equipped with ICTs

Province	*Landline*	*Fax*	*Internet*	*Computer*
Eastern Cape	22%	14%	3%	11%
Free State	57%	52%	15%	22%
Gauteng	90%	86%	38%	75%
KwaZulu-Natal	44%	31%	5%	17%
Limpopo	26%	13%	2%	11%
Mpumalanga	51%	35%	28%	16%
North West	44%	30%	4%	22%
Northern Cape	74%	69%	30%	51%
Western Cape	97%	92%	86%	61%

Source: Department of Basic Education, 2011 NEIMS report.

Table 22
Incidents of inhuman or degrading treatment or punishment and responses to them

Incidents or response	*2011*
Number of children reported as victims of torture	No such charge exists, only assault
Number of children reported as victims of forced marriage	
Number of children reported as victims of female genital mutilation	Data not available
Incidents of corporal punishment in schools, for children aged 5 years and older, by gender	1,042,725 males* 1,060,952 females*
Number of incidents of corporal punishment in child-care facilities	Unknown
Number of incidents of bullying and mobbing	Unknown

Incidents or response	*2011*
Number and percentage of reported violations above that have resulted in court decision or other follow-up	Unknown
Number of children who received special care in terms of recovery and social reintegration	Unknown
Number of programmes implemented for the prevention of institutional violence	Unknown
Training provided to staff of institutions	Unknown

Source: Statistics South Africa, General Household Survey 2011.

Table 23
Incidents of corporal punishment in schools by province (2011)

Province	*Number of incidents (2011)*
Western Cape	43,201
Eastern Cape	556,411
Northern Cape	48,366
Free State	158,170
KwaZulu-Natal	643,640
Northwest	154,670
Gauteng	124,885
Mpumalanga	75,042
Limpopo	299,292
South Africa	2,103,677

Source: Statistics South Africa, General Household Survey 2011.

E. Family environment and alternative care

Table 24
Access to support services

Service access	*2012*
Number of services and programmes aimed at rendering appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities	Not available
Number and percentage of children and families benefiting from the services and programmes	167,000 families, 85,000 children
Number of available child-care services and facilities	403 child and youth care centres 705 drop-in centres 19,971 ECD centres
Percentage of children and families with access to services	167,000 families, 85,000 children 22,000 children in child and youth care centres 1.2 million in DIC 984,524 accessing ECD services

Source: Department of Social Development.

Table 25
Data on child-care institutions

Child-care institutions	*2012*
Number of places available in child-care institutions	25,000
Number of children who are living in institutions	22,000
Number and percentage of children reunited with their parents after a placement	No data

Source: Department of Social Development.

Table 26
Number of children placed in foster care

Province	*1 April 2010 – 31 March 2011*	*1 April 2011 – 31 March 2012*
Eastern Cape	16,347	14,970
Free State	3,054	2,628
Gauteng	5,935	4,874
KwaZulu-Natal	26,175	18,682
Limpopo	8,290	8,697
Mpumalanga	5,405	5,105
North West	6,707	5,028
Northern Cape	1,519	732
Western Cape	3,563	3,556
Grand Total	**76,995**	**64,272**

Source: Department of Justice and Constitutional Development.

Table 27
Number of child adoptions per adoption–type

Year	*Local adoption*	*International adoption*	***Total***
2003/04	1,886	308	**2,194**
2004/05	1,994	232	**2,226**
2005/06	2,120	203	**2,323**
2006/07	2,055	260	**2,315**
2007/08	1,682	231	**1,913**
2008/09	1,150	218	**1,368**
2009/10	2,605	293	**2,898**

Source: Department of Social Development.

Table 28
International family reunifications

Family reunifications	*2012*
Number of children entering the country for the purpose of family reunification	No data
Number of children exiting the country for the purpose of family reunification	No data
Number of unaccompanied refugee and asylum-seeking children	477

Source: Department of Social Development.

Table 29
Abduction of children to and from South Africa

Illicit transfer	*2003*	*2008*	*2012*
Number of children abducted from South Africa	No data	29*	
Number of children abducted to South Africa	No data	24*	34*
Number of perpetrators arrested and the percentage of those that were sanctioned		No data	

Source: Department of Justice and Constitutional Development and * Department of Social Development

Table 30
Number of reported cases of neglect and ill-treatment of children

Province	*2003/04*	*2004/05*	*2005/06*	*2006/07*	*2007/08*	*2008/09*	*2009/10*
Eastern Cape	610	465	477	430	382	358	356
Free State	475	412	388	370	420	404	450
Gauteng	1,576	1,333	1,180	1,126	1,018	988	1,057
KwaZulu-Natal	685	687	637	467	448	490	455
Limpopo	381	328	277	269	232	235	218
Mpumalanga	309	331	246	203	166	170	164
North West	255	228	248	239	230	293	270
Northern Cape	451	347	272	240	232	213	197
Western Cape	1,762	1,437	1,103	14	978	883	847
Total	**6,504**	**5,568**	**4,828**	**4,258**	**4,106**	**4,034**	**4,014**

Source: Department of Social Development: Child Protection Register.

Table 31
Number of child abuse cases per province per financial year

Province	*2004/05*	*2005/06*	*2006/07*	*2007/08*	*2008/09*	*2009/10*	*2010/11*	*2011/12 Quarter 1*
Eastern Cape	0	0	0	1	0	373	181	0
Free State	1	19	953	210	117	10	18	0
Gauteng	832	461	1,075	675	1,121	296	588	18
KwaZulu-Natal	1	32	230	204	756	172	182	1
Limpopo	0	16	311	74	0	340	44	43
Mpumalanga	178	238	318	482	556	489	123	0
North West	106	0	1	142	34	114	26	57
Northern Cape	0	0	0	1	647	2	186	0
Western Cape	3,046	1,678	627	82	227	160	0	0
Total	**4,164**	**2,444**	**3,515**	**1,870**	**3,456**	**1,956**	**1,348**	**119**

Source: Department of Social Development: Child Protection Register (system not fully operational – data gaps in provinces).

Table 32
Number of reported cases leading to court sanctions for perpetrators, per province

Provinces	*2008/2009*	*2009/2010*	*2010/2011*	*2011/2012*
Eastern Cape	55	75	98	95
Free State	155	175	106	131
Gauteng	116	124	140	152
KwaZulu-Natal	55	48	50	29
Limpopo	87	69	80	57
Mpumalanga	40	36	42	39
North West	110	114	78	76
Northern Cape	82	63	55	39
Western Cape	194	205	174	140
Grand Total	**894**	**909**	**823**	**758**

Source: Department of Justice and Constitutional Development.

F. Disability, basic health and welfare

Table 33
Number of Care Dependency Grants by province as at 30 April 2012

Provinces	*30 April 2012*
Eastern Cape	18,353
Free State	5,464
Gauteng	14,350
KwaZulu-Natal	35,271
Limpopo	11,474
Mpumalanga	8,079
North West	8,841
Northern Cape	4,256
Western Cape	10,013
Grand Total	**116,101**

Source: SASSA Fact Sheet No. 4 of 2012.

Table 34
Number of primary learners with disabilities in ordinary schools, by province

	Year		
Province	*2008*	*2009*	*2010*
Eastern Cape	18,607	17,614	20,969
Free State	15,438	5,077	15,154
Gauteng	12,397	11,218	28,497
KwaZulu-Natal	15,647	17,310	21,549

	Year		
Province	*2008*	*2009*	*2010*
Limpopo	3,403	3,091	5,245
Mpumalanga	12,051	13,002	14,061
North West	3,390	2,511	1,534
Northern Cape	6,581	3,037	2,864
Western Cape	13,104	12,727	8,617
South Africa	100,618	85,587	118,490

Source: Annual School Surveys: 2008 to 2010.

Table 35
Number of primary learners with disabilities in special schools, by province

	Year		
Province	*2008*	*2009*	*2010*
Eastern Cape	5,371	6,512	5,799
Free State	513	1,471	1,348
Gauteng	19,960	12,104	31,775
KwaZulu-Natal	6,749	8,738	11,436
Limpopo	5,561	5,136	6,618
Mpumalanga	2,245	3,026	3,746
North West	936	66	1,915
Northern Cape	3,606	375	3,182
Western Cape	1,766	1,529	3,874
South Africa	46,707	38,957	69,693

Source: Annual SNE Surveys: 2008 to 2010.

Table 36
Rates of infant and child mortality

Mortality	*2003*	*2008*	*2011*
Infant mortality rate	52.4	42.1	37.9
Child mortality rate (under 5)	79.1	63.1	54.3

Source: Statistics South Africa. 2011. Midyear population estimates 2011. Stats SA. Pretoria.

Table 37
Proportion of children with low birth weight, wasting and stunting

	2008	*2011*
Proportion children with low birth weight		
National DOH Indicator used: Low birth weight rate in facility (%)	11.5	13.1
Proportion children with moderate stunting/wasting		
National DOH Indicator used: Diarrhoea without dehydration incidence under 5 years (annual)	22.7	15.2
Proportion children with severe stunting/wasting		
National DOH Indicator used: Severe malnutrition under 5 years incidence (annual)	5.3	4.7

Source: Department of Health district health information system.

Table 38
Maternal and infant health

	2008-2009	*2010-2011*
Percentage of one-year-olds fully immunised		89%
Proportion of pregnant women who access antenatal care*		100%
Percentage of mothers and babies that received postnatal care within 6 days after delivery*	New indicator	29.9% babies 27% mothers
Proportion of deliveries taking place in health facilities under supervision of trained personnel*	87.9%	89%
Proportion of personnel trained in hospital care and delivery		Data not kept but all doctors and midwives are trained

**Source*: Department of Health, Annual Performance Plan 2012/13.

Table 39
Maternal mortality rate and leading causes of death

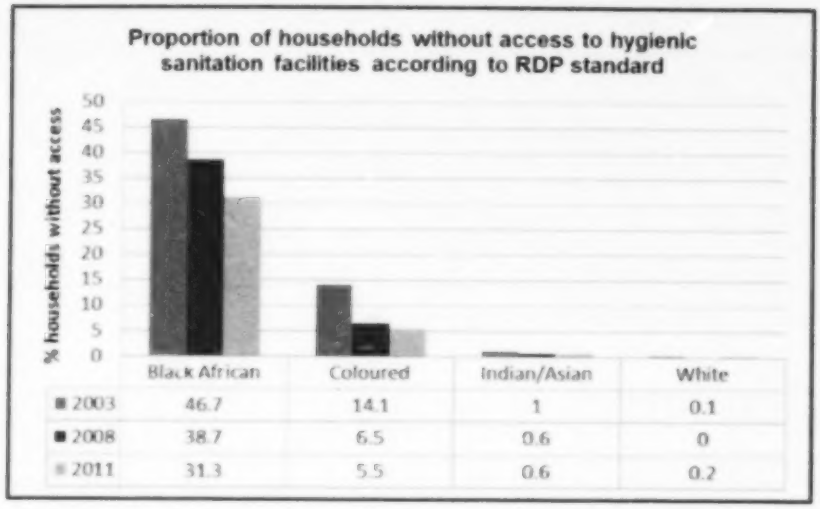
Maternal mortality	*2009*
Maternal mortality ratio	300 /100 000

Five leading causes of death	*2004-2007*	*2008-2010*
Non-pregnancy related infections – mainly HIV and co-morbid infections	43.7%	40.5%
Obstetric haemorrhage	12.4%	14.1%
Complications of hypertension in pregnancy	15.7%	14.0%
Pregnancy-related sepsis – septic miscarriage and puerperal sepsis	9.0%	9.1%
Medical and surgical disorders	6.0%	8.8%

Source: Saving Mothers Reports 2004-2007 and 2008-2010; MMR from Health Data Advisory and Coordinating Committee.

Figure 4

Households without access to hygienic sanitation facilities, by race and year

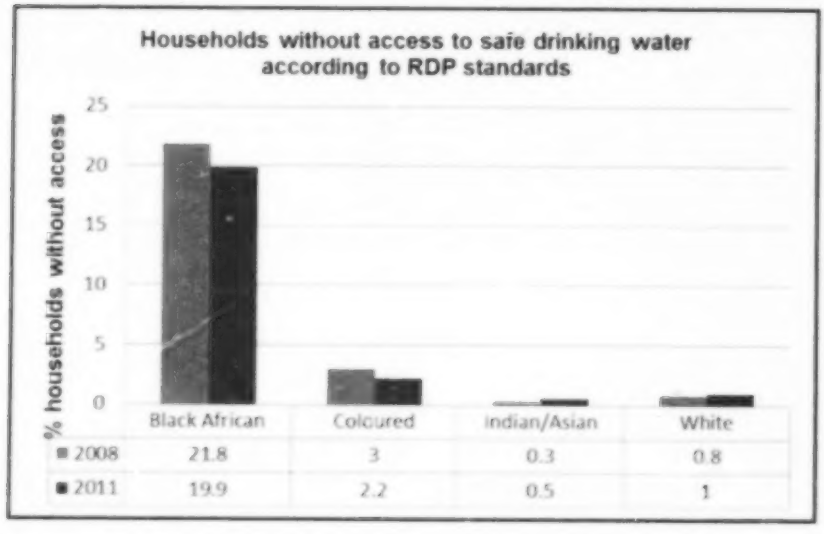


	Black African	Coloured	Indian/Asian	White
2003	46.7	14.1	1	0.1
2008	38.7	6.5	0.6	0
2011	31.3	5.5	0.6	0.2

Source: Statistics South Africa, General Household Surveys 2003, 2008, 2011.

Figure 5

Households without access to safe drinking water, by race and year



	Black African	Coloured	Indian/Asian	White
2008	21.8	3	0.3	0.8
2011	19.9	2.2	0.5	1

Source: Statistics South Africa, General Household Surveys 2008, 2011.

Table 40
Proportion of households without access to adequate sanitation, by province and year

Province	*Western Cape*	*Eastern Cape*	*Northern Cape*	*Free state*	*KwaZulu-Natal*	*North West*	*Gauteng*	*Mpuma-langa*	*Limpopo*
Proportion households without access to hygienic sanitation facilities according to RDP standard									
2003	10.1	64.7	24.5	32.6	42.4	23.4	10.6	44.9	73.4
2008	6.1	45.2	23.7	23.8	37.1	41.3	8.7	45.4	67.6
2011	4.6	37.0	15.8	16.9	28.7	34.6	9.5	42.4	53.2
Proportion households without access to hygienic sanitation facilities according to child-specific standards*									
2003	11.3	65.2	25.4	33.4	43.5	39.3	11.3	46.3	74.1
2008	8.9	46.2	26.5	24.8	38.5	42.2	10.4	46.5	68.0
2011	9.2	38.6	19.4	17.9	30.6	35.6	11.7	42.7	53.7

Source: Statistics South Africa, General Household Surveys 2003, 2008, 2011.

* Child-specific standard: flush toilets and ventilated pit latrines that dispose of waste safely and that are within or near a house.

Table 41
Proportion of households without access to safe drinking water, by province and year

Province	*Western Cape*	*Eastern Cape*	*Northern Cape*	*Free state*	*KwaZulu-Natal*	*North West*	*Gauteng*	*Mpuma-langa*	*Limpopo*
Proportion households without access to safe drinking water according to RDP standard									
2008	2.7	39.2	11.7	3.5	25.7	16.2	3.9	19.6	30.3
2011	2.2	35.1	7.3	3.1	25.9	17.0	3.4	16.7	28.6
Proportion households without access to safe drinking water according to child-specific standard*									
2008	7.5	54.4	23.8	7.7	38.7	31.5	10.2	30.7	53.7
2011	8.1	56.0	19.5	7.4	34.9	31.6	10.3	29.2	44.7

Source: Statistics South Africa, General Household Surveys 2003, 2008, 2011.

* Child-specific standard: access to a safe and reliable supply of drinking water at home either inside the dwelling or on site.

Table 42
Number of maternal orphans by province and calendar year

Province	***Total***	*%*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*
Eastern Cape	**209,042**	16.5	16,707	19,510	23,488	26,569	25,589	25,863	25,403	24,237	22,176
Free State	**88,340**	7	5,592	6,921	9,429	10,991	10,796	11,680	12,068	11,309	9,554
Gauteng	**196,355**	15.5	17,644	23,437	23,843	23,055	22,238	23,260	21,417	21,209	20,252
KwaZulu-Natal	**329,911**	26	26,570	30,931	33,042	35,769	42,478	43,586	41,335	41,523	34,677
Limpopo	**134,223**	10.6	10,107	10,979	14,437	15,386	16,698	16,642	16,993	16,563	15,918
Mpumalanga	**113,889**	9	9,872	11,582	11,994	14,367	14,102	14,308	13,008	12,788	11,872
North West	**92,642**	7.3	7,522	9,007	9,651	10,707	10,872	11,693	11,689	11,255	10,246
Northern Cape	**35,312**	2.8	3,241	3,342	3,749	3,904	3,893	4,404	4,434	4,707	3,638
Western Cape	**54,953**	4.3	3,219	5,457	7,072	6,753	6,530	6,686	6,318	6,368	6,550
Unknown	**12,700**	1	1,894	1,993	1,688	2,335	1,504	1,008	2,146	89	43
Total	**1,267,367**	**100**	**101,868**	**123,159**	**138,393**	**150,332**	**154,700**	**159,130**	**154,811**	**150,048**	**134,926**

Source: Department of Social Development: Surveillance system of maternal orphans.

Table 43
Number of maternal orphans by age and calendar year

Year	***Total***	*00 to 04*	*05 to 09*	*10 to 14*	*15 to 18*
2003	**101,880**	33,002	46,490	22,309	79
2004	**123,180**	37,255	51,325	33,963	637
2005	**138,444**	39,008	52,526	45,022	1,888
2006	**150,383**	40,089	52,505	54,234	3,555
2007	**154,754**	39,569	50,092	55,541	9,552
2008	**159,188**	39,887	47,806	53,144	18,351
2009	**154,920**	37,535	43,941	48,275	25,169
2010	**150,167**	34,543	41,185	43,690	30,749
2011	**135,367**	28,987	36,724	38,429	31,239
2012	**30,106**	6,342	8,413	8,347	7,004
Total	**1,298,389**	**336,205**	**431,007**	**402,954**	**128,223**

Table 44
Number of maternal orphans by gender and calendar year

	Male	*Female*
Year	***Total***	***Total***
2003	**50,731**	**51,149**
2004	**61,304**	**61,876**
2005	**68,885**	**69,559**
2006	**75,013**	**75,370**
2007	**76,887**	**77,867**
2008	**79,632**	**79,556**
2009	**77,359**	**77,561**
2010	**74,857**	**75,310**
2011	**67,422**	**67,945**
*2012	**15,055**	**15,051**
Total	**647,145**	**651,244**

Source: Department of Social Development: Surveillance system of maternal orphans.

Table 45
Number of OVC benefiting from home- and community-based care services, by province and financial year

Province	*2003/04*	*2004/05*	*2005/06*	*2006/07*	*2007/08*	*2008/09*	*2009/10*
Eastern Cape	2,585	29,022	32,158	19,221	45,317	134,220	107,111
Free State	6,260	9,699	15,712	22,534	26,701	29,542	12,015
Gauteng	29,940	16,804	60,671	44,423	67,756	59,301	158,425
KwaZulu-Natal	12,184	32,390	76,146	91,493	80,009	137,436	150,453
Limpopo	5,934	13,786	12,365	3,127	9,501	1,170	137,240

Province	*2003/04*	*2004/05*	*2005/06*	*2006/07*	*2007/08*	*2008/09*	*2009/10*
Mpumalanga	1,308	5,150	4,445	18,061	12,281	30,917	17,087
North West	1,391	909	4,646	5,085	18,117	16,412	7,557
Northern Cape	980	2,143	5,483	1,488	7,194	31,187	21,623
Western Cape	1,000	2,757	6,633	1,457	1,460	1,978	5,969
Total	**61,582**	**112,660**	**218,259**	**206,889**	**268,336**	**441,263**	**617, 480**

Source: National HIV/AIDS Programme

Table 46
Number of HIV-positive children receiving antiretroviral treatment, by financial year

Children	*2003/04*	*2004/05*	*2005/06*	*2006/07*	*2007/08*	*2008/09*	*2009/10*
Children receiving ARV		11,959	37,694	23,369	68,788	87,439	105,123

Source: Department of Health. Health Information Epidemiology Evaluation and Research (November 10 / Report).

Table 47
Proportion of child-headed households per province (2003, 2008 and 2011)

Province	*2003*	*2008*	*2011*
Eastern Cape	33.9%	26.5%	25.8%
Free State	6.0%	4.0%	4.6%
Gauteng	3.1%	4.1%	1.7%
KwaZulu-Natal	15.6%	12.6%	17.4%
Limpopo	27.2%	34.5%	33.2%
Mpumalanga	3.9%	11.2%	9.0%
North West	9.3%	5.5%	3.9%
Northern Cape	0.8%	0.5%	1.3%
Western Cape	0.4%	1.0%	3.1%
South Africa (%)	100%	100%	100%

Source: Statistics South Africa, General Household Surveys 2003, 2008, 2011.

Table 48
Total number of child-headed households

2002	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*
77,000	72,000	76,000	78,000	75,000	91,000	77,000	64,000	81,000	84,000

Source: Statistics South Africa, General Household Surveys.

Table 49
Adolescent health issues

Adolescent health issue	*2003*	*2008*	*2011*
Adolescents affected by mental health problems	No data	No data	75,827*
Adolescents affected by drug and alcohol abuse			8,573**

* *Source*: Department of Health. DHIS data on mental health visits to health facilities by children
** *Source*: Department of Social Development

Table 50
Drug and substance abuse in children

Drug and substance abuse	*2003*	*2008*	*2011*
Number of child victims of drug and substance abuse			No data
Number of assistance programmes available			12

Source: Department of Social Development.

Table 51
Children with incarcerated parents (2012)

By Province		*By Gender*		*By Race*		*By Nationality*	
Eastern Cape	7			Black	72		
Free State	13	Male	60	White	7	South African	82
Gauteng	42			Coloured	3		
KwaZulu-Natal	9						
Limpopo	14						
Northern Cape	13	Female	35	Other	13	Foreign	13
Western Cape	10						
Total							**95**
Average age							12 years

Source: Department of Correctional Services.

G. Education, leisure and cultural activities

Table 52
Literacy rates

Literacy rates	*2011*
Children	79,6
Adults	92,4

Source: Statistics South Africa, General Household Survey 2011.

Table 53
Primary school enrolment

Enrolment numbers	*2003*	*2011*
Grade R	300,000	705,000
Enrolment rates	2002	2010
Grade 1-7	96%	98%
School attendance: Children of compulsory school-going age (7-15 years)	73%	94%
Number and percentage of children in non-formal education system	Data not available	

Source: Department of Basic Education, GHS 2010: Focus on Schooling.

Table 54
Percentage children 7-15 years attending educational institutions, by gender (2002-2011)

Year	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*
Male	96.0	96.7	97.4	97.6	97.4	97.6	97.8	98.3	98.6	98.7
Female	96.6	97.6	98.1	97.9	97.8	98.2	98.1	98.6	98.7	98.8
Total	**96.3**	**97.2**	**97.7**	**97.8**	**97.6**	**97.9**	**97.9**	**98.5**	**98.7**	**98.8**
GPI	1.01	1.01	1.01	1.00	1.00	1.01	1.00	1.00	1.00	1.00

Source: Statistics South Africa, General Household Surveys 2002-2011(DBE own calculations).

Table 55
School retention

Retention	*2003*	*2010*
Retention for full compulsory period (Grades 1-9)	80%	88%
Drop-out rate in Grades 1-7		1%-2.5%
Drop-out rate in Grade 8		3.5%
Drop-out rate in Grade 11		11.8%
Proportion learners completing their FET cycle (secondary schools or FET colleges)		41%

Source: Department of Basic Education, GHS 2010: Focus on Schooling.

Table 56
Teaching capacity

Measure of teaching capacity	*1994*	*2008*	*2009*	*2010*	*2011*
Teacher-learner ratio ordinary public schools*		30.5:1			29.3:1
Proportion teachers qualified**	64%	94.4	93.7%	95.1%	
Proportion of Foundation Phase learners who received instruction in home language***				80%	

* *Source*: DBE (2012) Education statistics in South Africa 2010.

** *Source*: Department of Basic Education.

*** *Source*: DBE (2010): Status of language of learning and teaching (LOLT) in South Africa Public Schools.

Table 57
Number of children in registered ECD sites and funding thereof, per financial year

Item	*2004/05*	*2005/06*	*2006/07*	*2007/08*	*2008/09*	*2009/10*
Number of sites registered not subsidised	3,731	1,770	4,195	3,053	No data	No data
Number of sites registered and subsidised	4,382	5,054	5,531	5,872	7,091	16,250
Number of children supported	270,096	306,277	314,912	355,762	411,203	432,729
Amount per day per child x 264 days (lower and upper amounts included)	R2.50 to R6.00	R4.40 to R9.00	R4.50 to R11.00	R5.20 to R11.00	R9.00 to R12.00	R11.00 to R12.00
Total amount of average annual subsidies (Rands)	271,815,5	311,490,8	350,189,490	766, 022,000	792,005,000	961,562,000

Source: Department of Social Development.

Table 58
Number of children in ECD sites subsidised per province, by financial year

Province	*2004/05*	*2005/06*	*2006/07*	*2007/08*	*2008/09*	*2009/10*
Eastern Cape	63,300	63,300	63,300	63,300	74,480	74,500
Free State	21,688	24,438	25,726	28,558	36,558	40,558
Gauteng	16,047	16,146	20,000	23,854	41,419	42,154
KwaZulu-Natal	42,377	53,500	58,000	59,000	70,305	70,815
Limpopo	50,142	54,377	56,622	59,622	49,290	50,035
Mpumalanga	16,183	22,960	22,253	22,552	30,808	37,624
North West	12,000	12,560	12,000	17,621	22,257	25,215
Northern Cape	2,400	11,089	12,000	12,600	23,790	24,967
Western Cape	45,959	57,483	47,011	68,655	62,296	66,859
Total	**270,096**	**315,853**	**316,912**	**355,762**	**411,203**	**432,727**

Source: Provincial DSD ECD coordinators.

Table 59
Proportion of schools with sports facilities, by province

Province	*Number of sites*	*Sports facility available*	*% sports facilities available*	*No sports facility*
Eastern Cape	5,676	5,275	93%	401
Free State	1,615	985	61%	630
Gauteng	2,031	1,735	85%	296
KwaZulu-Natal	5,931	4,008	68%	1923
Limpopo	3,923	1,293	87%	526
Mpumalanga	1,868	1,749	96%	119
North West	1,674	1,542	92%	132
Northern Cape	611	493	81%	118
Western Cape	1,464	1,297	89%	167
National	24,793	20,481	83%	4,312

Source: DBE National Education Infrastructure Management System (NEIMS) 2011.

H. Special protection measures

Table 60
Number and type of reported child abuse cases per financial year

Types of abuse	*2004/05*	*2005/06*	*2006/07*	*2007/08*	*2008/09*	*2009/10*
Sexual	1,687	888	1,115	797	1,460	695
Deliberate neglect	1,273	851	659	636	1,053	512
Physical	1,117	521	528	342	656	246
Emotional	87	83	119	95	287	130
Not classified	0	1	94	1	0	0
Total	**4,164**	**2,444**	**3,515**	**1,870**	**3,456**	**1,583**

Source: Department of Social Development.

Table 61
Number of child trafficking incidents that resulted in sanctions, by province and financial year

Province	*Charges*	*2009/2010*	*2010/2011*	*2011/2012*
Eastern Cape	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007	2		2
	Sex Off: Sexual exploitation of children (furthering) Sec 17(3) of Act 32 of 2007			1
	Sex Off: Trafficking in persons for sexual purposes Sec 71(1) of Act 32 of 2007		2	
Free State	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007		2	
	Sex Off: Living from the earnings of the sexual exploitation of a child Sec 17(5) of Act 32 of 2007			2
	Sex Off: Sexual exploitation of children (engaging services) Sec 17(1) of Act 32 of 2007			1
	Sex Off: Sexual exploitation of children (furthering) Sec 17(3) of Act 32 of 2007			2
	Sex Off: Trafficking in persons for sexual purposes Sec 71(1) of Act 32 of 2007		1	2
Gauteng	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007		1	
	Sex Off: Living from the earnings of the sexual exploitation of a child Sec 17(5) of Act 32 of 2007		1	
	Sex Off: Sexual exploitation of children (engaging services) Sec 17(1) of Act 32 of 2007		2	
	Sex Off: Sexual exploitation of children: Sec 50A(1) Act 74 of 1983			1
	Sex Off: Trafficking in persons for sexual purposes Sec 71(1) of Act 32 of 2007			1
KwaZulu-Natal	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007	1		
	Sex Off: Living from the earnings of the sexual exploitation of a child Sec 17(5) of Act 32 of 2007		1	
	Sex Off: Sexual exploitation of children: Sec 50A(1) Act 74 of 1983	2	1	

Province	*Charges*	*2009/2010*	*2010/2011*	*2011/2012*
Limpopo	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007	1	1	
	Sex Off: Sexual exploitation of children (engaging services) Sec 17(1) of Act 32 of 2007		1	1
	Sex Off: Trafficking in persons for sexual purposes Sec 71(1) of Act 32 of 2007			1
Mpumalanga	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007			1
	Sex Off: Trafficking in persons for sexual purposes Sec 71(1) of Act 32 of 2007			1
North West	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007		1	1
	Sex Off: Sexual exploitation of children (engaging services) Sec 17(1) of Act 32 of 2007			1
	Sex Off: Sexual exploitation of children: Sec 50A(1) Act 74 of 1983		1	
Northern Cape	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007			1
Western Cape	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007		2	2
	Sex Off: Sexual exploitation of children (furthering) Sec 17(3) of Act 32 of 2007	1		
	Sex Off: Sexual exploitation of children: Sec 50A(1) Act 74 of 1983			1
Grand Total		**7**	**17**	**22**

Source: Department of Justice and Constitutional Development.

Table 62
Administration of juvenile justice (data available only from April 2011)

	2011/2012
Number of persons under 18 arrested by police due to alleged conflict with the law	
Number of cases where legal or other assistance was provided	10,785
Number of children referred to diversion programmes	6,256
Number of children found guilty of an offence and given suspended sentences	1,128 guilty 218 suspended sentences (19%)
Number and percentage of children given alternative sanctions based on a restorative approach	1128 guilty 372 restorative justice (32%)
Number of children who participated in probation programmes	6,256
Percentage of recidivism cases.	No data

Source: Department of Justice and Constitutional Development and the NPA.

Table 63
Number of children 14-17 years in correctional facilities (2002-2012)

Statistical year	*Remand detainees*	*Sentenced*	*Total*
Average for 2002	2,269	1,803	**4,072**
Average for 2004	1,923	1,710	**3,633**
Average for 2006	1,149	1,099	**2,248**
Average for 2008	912	832	**1,742**
31 December 2010	326	576	**902**
31 December 2012	178	287	**465**

Source: Department of Correctional Services.

Table 64
Number of women in correctional facilities (2002-2012)

Statistical year	*Remand detainees*	*Sentenced*	***Total***
June 2002	1,122	3,039	**4,161**
June 2004	941	3,145	**4,086**
June 2006	856	2,545	**3,401**
June 2008	1,004	2,517	**3,521**
June 2010	933	2,584	**3,517**
June 2012	849	2,281	**3,130**

Annex II

Supplementary information

A. SALRC reviews of laws impacting on the rights of children

(a) *The juvenile justice legal framework.* This process culminated in the Child Justice Act (2008), a comprehensive law aligning the legal framework governing children in conflict with the law with article 40 of the Convention and the principles of the Constitution.

(b) *The Child Care Act (1983).* This culminated in the Children's Act, a comprehensive child protection law giving effect to a range of principles and rights in the Convention and the OPSC.

(c) *The constitutional validity of numerous customary laws.* This culminated in the amendment of Law of Succession Act so as to outlaw male primogeniture.

(d) *The legal framework for the prevention and prosecution of sexual offences.* This culminated in the Criminal Law Amendment (Sexual Offences and Related Matters) (2007), which provides for a multi-disciplinary approach to service delivery and expands children's protection against sexual violence, abuse and exploitation.

(e) *The adequacy of the legal system to secure the rights, as prescribed by the Convention and the OPSC, of the victims of child trafficking.* This culminated in the development of the Prevention and Combating of Trafficking in Persons Bill (2010).

(f) *Eleven family and marriage laws, including the Matrimonial Affairs Act (1953), the Divorce Act (1979), the Mediation in Certain Divorce Matters Act (1987), the Maintenance Act (1988), and the Recognition of Customary Marriages Act (1998),* to ensure their alignment with the Children's Act (2005).

B. Judicial rulings promoting closer alignment with the Convention

(a) An order was made by the Constitutional Court (CC) in the *Government of the Republic of South Africa v. Grootboom* 2001 (1) SA 46 (CC) for the revision of a housing policy that did not provide relief for households with children desperately in need of shelter.

(b) In *Minister of Health v. Treatment Action Campaign (TAC)*, (2002) 5 SA 721 (CC), the Constitutional Court ordered that the national PMTCT policy be revised to make antiretroviral drugs available to all pregnant women.

(c) The Constitutional Court ordered, in the matter of ruling in *S v. M (Centre for Child Law as Amicus Curiae)* 2008 (3) SA 232 (CC), that the best interests of the child must be taken into account in sentencing decisions for convicted caregivers.

(d) In *Centre for Child Law v. Minister of Justice and Constitutional Development and others (National Institute for Crime Prevention and Reintegration of Offenders as amicus curiae)*, 2009 (6) SA 632 (CC), the CC declared that the application of minimum sentences by the Criminal Law (Sentencing) Amendment Act to 16- and 17-year-olds was unconstitutional.

(e) The North Gauteng High Court ordered the suspension and amendment of a procedural requirement in terms of the Children's Act (2005) for the renewal of foster care orders so as to prevent the lapsing of such orders and the accompanying Foster Care Grant. The grounds for the order were that the current procedure caused undue hardship for children and their caregivers (*Centre for Child Law v. The Minister of Social Development, the South African Social Security Agency and others*, Case number: 21726/11 North Gauteng High Court. 10 May 2011).

(f) In *AD v. DW (Centre for Child Law as Amicus Curiae, Department of Social Development as Intervening Party)* 2008 *3 SA 183 (CC)*, the CC stressed that the best interests of the child are the paramount consideration in all matters concerning the child, and outweigh other important legal considerations such as the subsidiarity principle, and on this basis upheld an otherwise unlawful adoption.

(g) *The Director of Public Prosecutions, Transvaal v. Minister of Justice and Constitutional Development* 2009 2 SACR 130 (CC) measured South African legal provisions for the testimony of child victims and witnesses against international law standards, in particular the UN Guidelines on Justice for Child Victims and Witnesses. The Court found the legal framework to be adequate, and gave guidance to criminal justice officials and courts to ensure the proper implementation of the law to provide appropriate protection.

(h) In *School Governing Body of Juma Musjid Primary School and Others v. Essay NO and Others (Centre for Child Law and Another as Amici Curiae)* 2011 (8) BCLR 761 (CC), the CC confirmed that a child's right to a basic education is immediately realizable (that is, not subject to progressive realisation) and subject only to a reasonable or justifiable limitation by a law of general application.

(i) *C and Others v. Department of Health and Social Development, Gauteng, and Others* 2012 (2) SA 208 (CC) successfully challenged the constitutionality of certain sections of the Children's Act which permitted the removal of a child without judicial review.

C. Measures taken to raise awareness and train service providers on the Convention and Protocols

(a) The DWCPD has engaged in a process of consultation and awareness-raising amongst children in rural and urban areas around the CRC and the new draft NPAC.

(b) The DOJCD has been at the forefront of raising awareness of the Convention as well as training of officials on relevant laws. It has engaged in extensive awareness-raising, focusing on the development of child-friendly and accessible information. Moreover, it has trained officials on the Child Justice Act and other policies and measures of support for victims of abuse.

(c) In 2001 the DOJCD produced a simplified version of the Convention for children. UNICEF assisted it in reproducing the book for wide distribution to schools, civil society and other governmental departments. The Department developed dedicated web pages for the Children's Act and South African Service Charter for Victims of Crime.

(d) The Department and the NPA have engaged in communications campaigns in different languages which included the use of local radio stations and publications such as brochures and pamphlets that deal with maintenance rights, domestic violence, sexual offences, child justice and Children's Courts. Booklets on Domestic Violence and Children's Rights are available in braille to children with visual impairments.

(e) As part of the DOJCD's outreach strategy, it undertakes quarterly information sessions involving schools and the wider community in order to inform children of their rights and responsibilities. The Department has two dedicated email addresses that enable children to liaise directly with officials.

(f) The Film and Publication Board has implemented outreach and communications campaigns to create awareness and educate children, parents, and caregivers on the role of the Board as well as the rights of children to protection against sexual exploitation, pornography and other forms of harmful media content. In addition, it has run workshops on the Films and Publications Act (2004) with the objective of training and empowering critical stakeholders like the South African Police Services, the NPA, Metro Police, South African Revenue Service Customs, magistrates and distributors on their roles and responsibilities under the Act.

(g) The DBE has integrated rights-based education into its life-skills curriculum. In addition, it has a "Rights and Responsibilities" campaign, and a Charter of Rights and Responsibilities has been developed and distributed to all schools in different languages. Children commit to the Charter.

(h) The DOH has undertaken communications and awareness-raising campaigns targeting especially remote and rural communities and children as part of its National Population Registration campaign. Innovative communication methods include the use of Community Forums, the use of local radio stations and even loud-hailers in communities.

(i) The DSD is the lead department for the national multi-sectoral Child Protection Week campaign, during which it raises awareness through educational talks, radio talks and promotional materials, and focuses on marginalised communities. In 2012 the theme was strengthening families to enable them to fulfill their responsibilities to children.

D. Examples of measures to regulate business activities impacting on children

(a) The State regulates private entities in sectors ranging from health and media to the environment to ensure that the rights of children are not compromised.

(b) Through laws such as the National Drug Policy and the Regulations Relating to a Transparent Pricing System for Medicines and Scheduled Substances, the Medicines and Related Substances Act (1965) and the draft regulations on Foodstuffs for infants and young children (2012), the health sector regulates conduct by private medical practitioners, pharmacists and pharmaceutical companies, as well as the sale of infant feeding products, so as to protect the survival, development and health of children.

(c) The Consumer Protection Act (2008) introduces a number of restrictions on the provision of services and sale of goods to protect consumer's rights. Several of these impact on services supplied to children by the private sector, including health and nutritional services and the sale of toys.

(d) The private sector is constrained by environmental laws such as the National Environmental Management Act (1998) and National Environmental Management: Air Quality Act (2004), which oblige public- and private-sector enterprises to conduct themselves in a way which ensures that everyone (including children) enjoys the right to an environment which is not harmful to health or well-being.

(e) The media are regulated by laws and codes, including the Films and Publications Act (1996) as amended (2004), so as to protect children from harmful information.

(f) The Children's Act regulates child care and protection services by private entities by prescribing minimum norms and standards to ensure acceptable levels of quality and safety.

E. Measures taken to ensure decision-makers take children's views and best interests into account

Legal measures

(a) Various laws oblige consultation with children in matters affecting their education. For example, the South African Schools Act (1996), National Education Policy (1996) and Children's Act (2005) require that: (i) learners be consulted when developing a school code of conduct and that those facing disciplinary processes have a right to be heard and to legal representation; (ii) all schools accommodating older children must have a formal learner representative council and learners must be represented on the overarching school governing body; (iii) the Minister of Basic Education is obliged to consult with learners through national learner representative bodies when reviewing or developing national education policies; and (iv) parents and others with parental responsibilities have to consult children when taking decisions about their schooling.

(b) In the health context, the Children's Act, the Choice on Termination of Pregnancy Act No. 92 of 1996, the Prevention of and Treatment for Substance Abuse Act No. 70 of 2008, and the National Health (2003) require that: (i) children participate in, and if they are old enough, consent to decisions about health treatment and procedures as well as HIV testing and disclosure, virginity testing, male circumcision and access to contraception; (ii) any child, regardless of her age, may consent, without her parents' involvement, to a termination of pregnancy, provided she receives adequate medical advice; (iii) children participate in finding solutions to their substance-abuse problems; (iv) they be part of local health planning processes.

(c) The Children's Act, Child Justice Act, National Youth Development Agency Act No. 54 of 2008 and the National Climate Change Response Paper (2011) all require the consent and/or participation of children in:

(i) Adoption: children older than 10 years, and even younger if they understand the proceedings, must consent to being adopted;

(ii) Child justice determinations: the Child Justice Act requires the participation of children in conflict with the law in assessments by probation officers to determine their criminal capacity and related matters, as well as in the preliminary court inquiries;

(iii) Divorce proceedings, the development of parenting plans, and any other proceedings involving guardianship, care and contact with parents or caregivers;

(iv) Alternative care settings: the Children's Act requires that child and youth care centres have a children's forum and that children be represented on the management board;

(v) Child-headed households: children in child-headed households must be consulted by the supervising adult appointed in terms of the Children's Act in respect of decisions taken on the child's behalf; and

(vi) Children's Court inquiries: children are entitled to participate in Children's Court inquiries for the determination, inter alia, of whether they are in need of care and protection, and the determination of care orders.

(d) All children aged 14–18 are regarded as youth and must, in terms of the National Youth Development Agency Act, be included in democratic decision-making processes.

(e) The Climate Change Response White Paper (2011) requires that all vulnerable groups, including children, should be involved in the development of policies and programmes to address the impact of climate change on their communities.

Departmental implementation of obligations to respect the views of the child

(a) The Department of Justice and Constitutional Development:

(i) The Children's Act and Child Justice Act recognise and protect children's right to participate in judicial and administrative proceedings in numerous ways, including by speaking on their own behalf or through a legal representative. In order to facilitate participation, both Acts require that Children's Court rooms and processes be designed so as not to be intimidating and to encourage the child to feel comfortable in participating. In terms of the Child Justice Act, children have the right to be addressed in their home language in a child-friendly setting. Court officials are not robed, and no court podium is used in Preliminary Inquiries. There are currently 1,963 persons in the employ of the DOJCD assisting in translating matters in courts across the country.

(ii) Similarly, section 48 of the Children's Act states that the Children's Court must, as far as practicable, be furnished and designed in a manner aimed at putting children at ease. The court must be conducive to the informality of the proceedings and to active participation of all persons involved without compromising its prestige.

(iii) Section 170 A of the Criminal Procedure Act of 1977 as amended, makes special provision for evidence to be given by children in a secure and non-intimidating environment. It allows for evidence to be led via CCTV or one-way mirrors and with the assistance of an intermediary. The Department has installed CCTVs and one-way mirrors in dedicated sexual offences courts to ensure that vulnerable witnesses in cases of sexual violence testify in a private room separate from the courtroom where the alleged offender is appearing.

(iv) Where a child in a matter before the Children's Court does not have a legal representative, and the court is of the opinion it would be in the child's best interests to have legal representation, the court must refer the child and the matter to the Legal Aid Board for the necessary legal support.

(v) The SALRC and DOJCD also facilitated the participation of children in the consultative process through which the Child Justice Act was developed.

(b) The SALRC facilitated community dialogues to obtain the views of children on the Children's Bill and the Child Justice Act.

(c) The Department of Rural Development has facilitated children's participation in the Comprehensive Rural Development Programme through its Child Participation Project and Children's Imbizos. The Department has sought to include minority indigenous children in rural areas such as the Khoi-San by encouraging their participation in the Imbizos and creating opportunities for them to share their language and culture with other children to raise awareness of, and respect for, diversity.

(d) The DBE has facilitated children's participation in the development of various education policies and programmes through its Girls Education and Boys Education Movements (GEM and BEM clubs):

(i) For example, these clubs were used by the DBE to facilitae children's participation in climate change policy and programming dialogue over the last few years. South Africa hosted the COP 17 in 2011. The GEM/BEM clubs were a key vehicle for engaging children on climate change and facilitating their participation at the COP 17 events. The Department, together with UNICEF, engaged children across the country on matters related to climate change. The proceedings were recorded in a report shared with environmental decision-makers at an international and national level ahead of the COP 17.

(ii) Another vehicle used by the DBE to mobilise children's participation in environmental dialogue is the Eco-schools project coordinated by the Worldwide Fund for Nature and the Wildlife and Environmental Society for South Africa. As vocal agents of change, children are encouraged through this process to make themselves heard at a family and community level on matters related to the environment and home and community practices (DWCPD and UNICEF, 2011).

(e) The South African National Aids Council (SANAC) facilitated the active participation of children, adolescents and youth in the development of the NSP2012–2016.

F. Measures by the DHA to address knowledge of and access to birth registration and ID services

The Department has expanded its service delivery footprint through the following measures:

(a) A number of new offices have been built since 2005, with priority given to rural areas. By 2012 the DHA had 410 Civic Services Offices.

(b) In 2005 the DHA added a fleet of mobile offices focused on rural communities; 115 mobile units are now operational in all nine provinces.

(c) To expedite birth registration and ID applications in remote offices, the Department has embarked on a programme of ensuring 300 service delivery offices are outfitted with "live-capture functionality".

(d) The footprint has also been expanded through the integration of registration services at hospitals and clinics, thus allowing for immediate and live-birth registration. By 2012 the DHA had established a presence at 248 health facilities. The medium-term goal is to connect 260 health facilities by 2015, and ultimately to achieve universal connectivity in all facilities across the country.

(e) The DHA has a partnership with the South African Post Office in terms of which it shares the latter's retail space at a nominal rental; these spaces are also being integrated into the design of various new shopping malls.

(f) Registration services are offered through multi-purpose community Thusong Centres, which were set up with the objective of extending government services into rural and outlying under-serviced communities.

(g) The National Population Registration (NPR) Campaign is a public outreach programme to ensure that every citizen in the country is registered on the National Population Register and has the right document at a specified time of their lives. As such, its focus is on securing birth registrations within the prescribed 30-day period. It has two

strategic legs. The first was to streamline the registration process and close loopholes that were exploited by opportunistic applicants to fraudulently obtain birth registration and identity documents. At the same time, the process for simultaneous late registrations of parents and registration of the birth of their child was simplified and uncoupled to reduce the risk of fraud.

(h) Stakeholder forums have been a key innovation employed to achieve the DHA's advocacy, awareness-raising and community mobilisation objectives within communities with low birth-registration rates, low levels of knowledge, limited resources and which are confronted by many of the other challenges preventing birth registration. The Department's close relationship with these stakeholder forums has resulted in an increase in the DHA's footprint, the employment of more staff, the opening of more offices and the deployment of mobile units into areas where the need is the greatest. In addition, the forums have significantly contributed to the improved realisation of the right of children to early birth registration and access to other forms of identity documents.

(i) The DHA has also integrated information and the provision of support for registration into various community-based outreach initiatives led by other organisations and departments. They have a working partnership with 3,000 Community Development Workers falling under the Department of Public Service and Administration. These workers provide information and support to vulnerable communities.

G. Departmental child-friendly communications campaigns and publications

(a) The DOJCD has been proactive in disseminating information about laws and services to protect the rights of children. Its initiatives have been designed to ensure maximum accessibility and relevance to all children. In 2011, it developed and aired television programmes on non-school mornings on matters pertaining to Child Justice, and has partnered with the Government Communication and Information Services to broadcast information about the Child Justice Act on 65 radio stations in regional languages. A more personal approach is adopted in a programme of "Fair Play". This takes the form of sports events at schools across the country that educate children on rights and responsibilities in the context of sports rules.

(b) The NPA has undertaken a radio campaign on various topics, including the Child Justice Act, to inform community members in their home languages about the criminal justice system for children. The campaign is estimated to have reached 34 million listeners.

(c) Legal Aid South Africa opened a toll-free advice line in 2010 with a dedicated focus on children's rights.

(d) The DBE shares information with children about their rights through the curriculum, especially the Life Skills curriculum. It also produces targeted child-friendly media such as Rights and Responsibilities posters and publications on the prevention and reporting of abuse in schools settings.

(e) The Film and Publication board has implemented awareness campaigns that improved access to information by children and their parents on the Films and Publications Act (2004) and its protection against sexual exploitation, pornography and other forms of harmful content. It has targeted the dissemination of information in fora that are accessible to children, such as schools and shopping malls.

(f) During the annual Child Protection Week, multiple departments provide accessible information in a variety of media forms on the shared issue of child protection.

H. Structures and programmes to support implementation of care and protection legislation

(a) National and Provincial Child Care and Protection Forums have been set up to facilitate co-operation and coordination in the implementation of the Children's Act (2005) and related matters.

(b) Several national campaigns address issues of child protection, including Child Protection Week and the 16 Days of Activism Campaign on No Violence against Women and Children.

(c) Fifty-two Thuthuzela Care Centres have been established around the country and are responsible for providing victims of sexual abuse with integrated services, including access to police, counselling, doctors, court preparation and support with offender prosecution. Thirty of these centres are fully operational, in line with the target of the NPA strategy document for 2011/12.

(d) The NPA launched an initiative known as the Ndabezitha Programme, which entailed the training of traditional leaders on the provisions of the Domestic Violence Act (1998).

(e) A restructuring process devolved and distributed members of specialised child protection units so as to have Family Violence, Child Protection and Sexual Offences (FCS) units at individual stations. Efforts are being made by the Minister of Police to strengthen these units.

(f) Victim Friendly Rooms at police stations have been established in an effort to ensure that victims, including child victims, are able to provide statements in a safe and private environment. These rooms are equipped with aids to assist the taking of statements from children. By the end of the 2010 financial year, 900 victim-friendly facilities had been established throughout the country.

(g) SAPS also coordinates school visits by police officials (known as Captain Crime Stop and the Adopt-a-Cop officials) and shows at public events to raise awareness of child abuse and to highlight the importance of reporting its occurrence.

(h) The DWCPD is pursuing agreements with key Municipalities to pilot the Child Friendly cities/communities model to create safe spaces for children within these areas.

(i) The Sexual Offences and Community Affairs (SOCA) Unit was established in the NPA, mainly to focus on Sexual Offences, domestic violence, human trafficking, enforcement of child maintenance, managing of child offenders and other issues involving victimisation of women and children. The primary focus of the Unit is to eradicate all forms of gender-based violence.

I. Developments to address nutrition

(a) School feeding is offered via the National School Nutrition Programme, providing daily meals to almost 10 million children, although provincial consultation processes highlighted the need for feeding to continue during school holidays and for better menu planning to improve nutritional value.

(b) The National Health Act (2003) protects, respects, promotes, and fulfils the rights of children to basic nutrition and basic health care services contemplated in section 28(1)(c) of the Constitution.

(c) The National Food Emergency Programme (NFEP) is administered by the DSD and is a sub-programme of the Integrated Food Security Strategy. The DSD-led programme is divided into two components: food relief to households, and food-production support in the form of agricultural starter packs.

(d) The Special Programme for Food Security (SPFS) was introduced in 2004 to bring about a rapid and sustained increase in food production and improved livelihoods amongst smallholders.

(e) Regulations requiring fortification of maize and bread flour with zinc, iron and six vitamins were implemented to reduce micronutrient deficiencies. In addition, iodization of salt has also become mandatory. Fortification with folate has resulted in a 30% decrease in the incidence of neural tube defects, whilst mandatory iodation of salt has dramatically reduced the prevalence of iodine deficiency. Routine Vitamin A supplementation for children younger than 5 was introduced in 2003.

(f) Deworming is provided at PHC facilities and through campaigns. Guidelines for regular deworming of primary school children have also been developed and will be provided as part of the Integrated School Health programme (ISHP) package of services.

(g) Implementation of the WHO Ten Steps for the Management of Severe Malnutrition has been shown to reduce case fatality rates between 30% and 55%. This approach has already been adopted by the majority of provinces and is currently implemented in 125 hospitals.

(h) Although growth monitoring is provided at all health facilities, a number of studies have documented inadequacies in the correct identification and management of children with growth faltering and failure (DOH, 2012). In 2010 a new comprehensive Road to Health Booklet was implemented as part of the immunisation programme. The booklet includes improved systems for growth monitoring so as to enable early identification and referral of children in need.

(i) The Infant and Young Child Feeding Policy (DOH, 2007) regulates safe nutritional and feeding practices for infants and young children. Policy and Guidelines for the Implementation of the PMTCT Programme (DOH, 2008) call for appropriate feeding counseling, support and treatment of HIV-positive women and HIV-exposed infants. In 2011 the Health Minister declared South Africa a breastfeeding country and the Tshwane declaration was signed in support of exclusive breastfeeding, targeting all health facilities to be mother- and baby-friendly by 2015.

(j) In 2012 the DOH drafted the Strategic Plan for Maternal, Newborn, Child and Women's Health and Nutrition 2012–2016. The plan reiterates South Africa's commitment to promoting maternal and child health, and aims to reduce mortality and improve the health and nutritional status of women, mothers, newborns and children through promotion of healthy lifestyles and provision of integrated, high-quality health and nutrition services.

J. Children especially vulnerable to educational exclusion

(a) Seventy percent of predominantly poor and rural children aged 0–4 years are excluded from ECD services (The Presidency, Department of Performance, Monitoring and Evaluation, 2012).

(b) Approximately 120,000 learners of compulsory school-age are excluded from school (DBE, 2011e).

(c) According to the DBE (2012a), 480,000 children with disabilities of school-going age are out of school.

(d) Older learners are at a high risk of dropping out, with a drop-out rate of between 3,5% and 11,8% for children after Grade 9 (DBE Report, June 2011).

(e) Low numbers of older post-basic education learners (41%) are retained and complete their FET cycle, and very few access FET colleges. In 2011 only 1,6% of individuals attended FET colleges (Statistics South Africa, 2012).

(f) Black children are poorly represented at university level. Only 3,5% of this population group aged 18–29 were enrolled in 2011, compared to 20% of white and 14,9% of the Indian/Asian population groups (Statistics South Africa, 2012).

K. Measures to address common drivers of educational exclusion of vulnerable children

(a) Measures to address poverty as a barrier to education

(i) Lack of money for fees is the primary reason for children's exclusion from all levels of education (Statistics South Africa, 2012) (The Presidency, Department of Performance, Monitoring and Evaluation, 2012). The DBE has introduced pro-poor funding of schools serving poor communities. The National Norms and Standards for School Funding (2006) oblige provincial Departments of Education to rank their schools from "poorest" to "least poor" and allocate more funds to the poorer schools. Furthermore, in 2006 the Norms and Standards for School Funding introduced no-fee schools. The policy was progressively expanded, and as a result the percentage of children attending an institution where no fees are charged increased dramatically from 0,7% in 2002 to 55,6% in 2011. Currently, more than 8 million learners in over 80% of public schools benefit from the no-fee school policy. The percentage is much higher in poorer provinces with larger rural areas, where over 90% of schools are no-fee schools (Statistics South Africa, 2012). The no-fee policy has brought the State closer to realisation of the Committee's concluding observation No. 34 to make primary education free for all children. The no-fee policy is supplemented by a system of school-fee waivers for children living in poverty who attend schools that charge fees.

(ii) In addition to fees, the cost of uniforms and transport have been addressed through (a) the National Guidelines on School Uniforms No. 173 of 2006; and (b) provincial transport policies that provide subsidised transport to learners living far from schools. In addition, the National Policy for Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2008) makes provision for transport and hostels where "ease of physical access to schools is not financially feasible".

(iii) The National School Nutrition Programme was implemented in the poorest schools in the country. The programme provides food to almost 10 million children. In 2011, 74,2% of learners attending schools with feeding schemes benefited from this programme (Statistics South Africa, 2012).

(iv) A modest subsidy of R15 per child is currently paid to a number of registered ECD centres providing ECD to 0–4-year-olds living in poverty, and a subsidy of between R5 and R17 is paid to community-based centres providing Grade R services.

(v) The DHET has implemented a range of interventions to improve access for black African learners living in poverty, including free education for children living in poverty at FET colleges. The Minister has established a working group to conduct a study to determine the actual cost of introducing fee-free university education for the poor. In

addition, there is a National Student Financial Aid Scheme (NSFAS), and R5 billion of the 2012 budget has been allocated to it for loans and bursaries in the university and FET sectors.

(vi) The DBE is addressing challenges experienced in the implementation of a number of these policies. Notably, it is currently reviewing the use of the quintile system to determine preferential funding allocations, with a view to adopting a more equitable framework that will allows learners to access funding in line with their relative poverty status. A study is also under way to explore an alternative foundation for the allocation of funding to fee-charging schools.

(b) Measures to address disability as a barrier

(i) The DBE has developed and implemented a number of interventions to improve access for children with disabilities, including: (a) a programme of action for the identification of learners with disabilities and other learning barriers, governed by Education White Paper 6: Special Needs Education — Building an Inclusive Education and Training System (2001) and the National Strategy on Screening, Identification, Assessment and Support (2008); (b) the provision of disability-friendly infrastructure in terms of the preceding policy and the National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2008); and (c) the translation of core workbooks into braille and adoption of Sign Language as an official language within the curriculum.

(ii) While much effort has been made to address disability as a barrier to primary education, there is a significant policy gap in making similar provision for state-funded, regulated and otherwise supported ECD for children with disabilities. The DSD and DBE are responding to this gap through the national ECD plan of action currently in development.

(iii) There are a number of challenges in the implementation of the inclusive education policy at primary and secondary levels. These revolve largely around the inadequacy of resources. The DBE is committed to resolving these issues, and plans on building more full-service schools so that there is one in each district (92), as well as training more teachers on the disability strategy, with the goal of training 416 by 2014/15.

(c) Measures to address teen pregnancies

In 2011, 4.5% of girls between the ages of 13 and 19 were pregnant. Pregnancy creates a significant risk of educational exclusion. In 2009, 6% of out-of-school learners between the ages of 7 and 18 were not at school because of pregnancy (DBE, 2011e). The DBE developed a set of guidelines to help prevent pregnancies and to encourage the return of girls after giving birth, in the form of its Measures for the Prevention and Management of Learner Pregnancy (2007). However, following a 2009 study on the link between pregnancy and education, these have been revoked and are being replaced with nationally applicable guidelines that will ensure the return of girls after giving birth, encourage the prevention of pregnancy through education on sexual and reproductive health rights, and ensure that returning girls receive the necessary support to secure their ongoing retention.

(d) Integration of care and support for teaching and learning in the education system

The extent of poverty in South Africa and the aggravating effect it has on the vulnerability of children in already difficult circumstances has created a number of challenges to the implementation of targeted access policies. Educators have expressed concerns at the overwhelming number of learners needing support, the array of responsibilities thrust on them to support vulnerable learners, as well as the lack of

additional resources necessary to fulfill their assigned responsibilities. The DBE has sought to address these concerns through the systematisation of care and support for all vulnerable learners within the education system via the development and implementation of the Care and Support for Teaching and Learning (CSTL) Programme. It aims to secure nutritional support, health promotion, infrastructure, water and sanitation, social services, psychosocial support, safety and protection, curriculum support, and material support to all learners, with a focus on the most vulnerable, through a collaborative multi-sectoral framework of action.

L. Measures to address the underlying causes of poor educational outcomes in South Africa

(a) Increased access to, and the professionalisation of, early childhood development and education

Improving access to, and the quality of, early childhood development services, including ECE, has been a key strategy employed by the State to improve the quality of all levels of education. Measures taken in this regard include the provision of free health care for all children up to the age of 6 years, the provision of an ECD subsidy to support the early childhood education of poor children, the capitalisation of training of ECD practitioners serving poor communities through the Expanded Public Works Programmes, the standardisation of the qualifications of ECD practitioners, the recent introduction of a minimum qualification for Grade R practitioners, and the universalisation of Grade R through the public school system.

(b) Curriculum review

The content and quality of the curriculum is central to the quality of education and realisation of the aims of education. The DBE has implemented a variety of measures to improve the curriculum, including:

(i) Four reviews of the adequacy and quality of the school curriculum. These have led to the most recent Curriculum and Assessment Policy Statements for Grades R-12, which were published in 2011 and will be implemented between 2011 and 2014. They have been designed to ensure improved acquisition of skills and knowledge necessary to achieve the aims of education through appropriate content development and mechanisms for better teaching and learning. The revised curriculum focuses on the acquisition of basic skills such as literacy and numeracy, especially in the early years. It has been made more accessible to teachers through the development of specific content-statements for each subject as well as specific statements as to the requisite teaching methodology and time to be spent on each subject area in all education phases.

(ii) The Department has also implemented a training programme to support the proper application of the new curriculum and has thus far trained 130,000 teachers and 2,810 subject advisors.

(iii) Targeted interventions have been developed to support improvements in enrolment and outcomes in specific areas such as mathematics and science. For example, the Dinaledi programme is an intensive programme supporting the acquisition of mathematics skills in targeted schools serving poor communities. Students are provided with intensive levels of support, as are the teachers.

(iv) The curriculum at FETs has been found to be outdated, and revision commenced in 2012.

(v) The ECD curriculum has undergone various developments. In 2009, the DBE developed the National Early Learning and Development Standards for Children Birth to Four years (NELDS), and is in the process of finalising a 0–4 curriculum.

c) Learner assessments

A core concern emerging from the curriculum review was the inadequacy of the learner assessment framework. This has been revised and strengthened in two key respects. In 2011 the DBE introduced Annual National Assessments (ANA) to assess progress in the acquisition of numeracy and literacy skills. In addition it will, in 2012, be implementing a National Strategy for Learner Attainment Framework to facilitate a process of continuous learner assessment and responsive teaching to address learning challenges and barriers revealed through the assessments. A Curriculum Coverage Monitoring Tool has also been developed to ensure that the curriculum is covered from year to year.

(d) The number and qualifications of teachers

The State has taken steps towards improving both the quantity and quality of teachers, especially in under-serviced areas:

(i) There have been significant improvements in the average national learner-teacher ratio during the reporting period. The ratio in ordinary public schools in 2011 was 29:1, compared to 30.5:1 in 2008. There is, however, variation in class sizes between different provinces. In total, approximately 14% of public school classes have more than 50 learners (DBE, 2012). In addition, a recent three-province study indicated that 55% of Grade R classes exceeded the recommended ratio of 30:1 (DBE, DSD and UNICEF, 2011). Despite significant improvements in the number of qualified teachers from 65% in 1994 to 93,7% in 2009, the insufficiency of qualified teachers continues to problematise appropriate learner-teacher ratios. The problem is especially acute in rural areas, despite a policy of better pay for rural teachers. The DBE is continuing its efforts to improve the number of qualified teachers as well as the quality of their qualifications through its Strategic Planning Framework for Teacher Education and Development in South Africa 2011–2025. In addition, the Department has improved implementation of the policy of better pay for teachers in rural areas and revised its policy on teaching posts to ensure a closer match between demand and supply in under-serviced areas.

(ii) The 2012/13–2013/14 higher education budget makes provision for the ring-fencing of R450-million towards teacher education. At FET level, there has been a 15% growth in enrolments for teacher-education programmes in 2010. This promising development is set to increase faster with the re-opening in 2010 of former teacher training colleges in various provinces.

(e) Learning and support materials

A concern raised in the curriculum review was the lack of textbooks to support learning:

(i) The DBE has introduced a workbook programme targeting the development and distribution of literacy and numeracy workbooks and textbooks for Grades R–9. There have been challenges in the delivery of workbooks in various provinces. The DBE established a task team to investigate the cause of the blockages and make recommendations to ensure smooth delivery in 2013.

(ii) The DBE has, through the National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2010) and Guidelines Relating to Planning for Public School Infrastructure (2012), sought to ensure minimum

standards in relation to textbook content and the number and type of learning and support materials provided.

(f) Improved planning, coordination, management and monitoring

The DBE has sought to improve the quality of education across provinces and districts with the following measures designed to enhance planning, coordination, management and monitoring:

(i) The ACE management programme and performance agreements with principals have been introduced to strengthen leadership and accountability of school principals.

(ii) The DBE has introduced more stringent teacher-monitoring and qualification systems.

(iii) Two structures were established in 2011 to improve the systemic planning, monitoring and support necessary to ensure strengthening of the education system. These are the Planning and Delivery Oversight Unit (PDOU) and National Education Evaluation and Development Unit (NEEDU).

(iv) Numerous initiatives have been implemented to improve the management and accountability of FET colleges and universities. These include the relocation of authority over FET colleges through the FET Colleges Amendment Bill (2011), a performance-agreement system with FET college principals, increasing the financial and human resource management capacity at colleges, and the institution of college turnaround strategies in dysfunctional institutions.

M. Measures to integrate human rights knowledge and practices within the education system

(a) The former DOE established the Race and Values in Education Directorate and Gender Equity Directorate to promote values, human rights (including gender rights), social cohesion and a sense of national identity in schools across the country. These directorates were recently merged into the Social Cohesion and Equity in Education Directorate. The directorate has developed programmes and produced publications to support the implementation of human rights in schools.

(b) Through an active programme of the Commemoration of Historical Anniversaries, the Department has encouraged learners and educators to engage with South Africa's difficult past.

(c) A range of initiatives has been implemented to support a human rights culture in schools. These have included the Whole School Development initiatives, an Advanced Certificate in Human Rights Education, and workshops with educational districts and school governing bodies.

(d) Human rights education, including education on equality, children's rights, gender equity, HIV and AIDS, and disability, is embedded in the new curriculum.

(e) The human rights education programme is supported by an HIV and AIDS (Life Skills Education) Conditional Grant to provide education and training for School Management Teams (SMTs), learners, educators, and other school support staff on developing, implementing and managing Life Skills Education in line with the NSP on HIV and AIDS, policies on HIV and AIDS, curriculum and assessment policy, drug and substance abuse and gender equity issues. The DBE has developed a revised Draft

Integrated Strategy on HIV and AIDS 2012–2016 to ensure a comprehensive and integrated response to HIV and AIDS throughout the education system.

(f) The DBE's Gender Equity Directorate has developed various guidelines, including Guidelines for the Prevention and Management of Sexual Violence and Harassment in Public Schools, a series of support materials for teachers entitled Genderations (2008), and learner-focused guidelines for dealing with sexual abuse in schools.

(g) In an effort to reduce high levels of violence in schools, the DBE has signed a Collaborative Partnership Protocol with the SAPS. To date, 11,822 schools have been linked to local police stations.

(h) The DBE has established the Girls Education Movements (GEM) and Boys Education Movements (BEM). These are peer-education movements providing life skills education on issues such as teenage pregnancy, HIV and AIDS, sexual abuse, drug abuse, and gender-based violence.

N. Special Protection Measures

(a) Training activities to support implementation of the Child Justice Act

(i) In 2011 a workshop was held on implementation of the section of the Child Justice Act (2008) dealing with proof of criminal capacity. It was attended by representatives from the DCS, SAPS, DOJCD, DOH, Justice College, SAHRC and Legal Aid South Africa.

(ii) Basic and in-service training of police officers is conducted as per the SAPS National Instructions on an ongoing and incremental basis. Over 7,000 SAPS members have received this training in 2102 (DOJCD, 2012), and 15,877 police officials benefited from a one-day Child Justice Act and National Instruction information session (SAPS, 2012). Other training targeting SAPS includes in-service "Vulnerable Children Workshops" and a "Children and Youth at Risk" course initiated in 2008.

(iii) A training manual on the Integrated Social Crime Prevention Strategy is in place, with 345 probation and social services practitioners having been trained accordingly. The DSD has also developed practice guidelines on probation services, and has trained 285 probation officers, assistant probation officers and child and youth care workers nationwide.

(iv) Two-hundred-and-five master trainers have been trained on the Social Crime Prevention Programme (therapeutic), including representatives from all nine provinces.

(v) Three workshops have been held on the Programme on Accreditation of Diversion Services in South Africa, and provincial coordinators have been trained on quality assurance measures in diversion facilities.

(vi) In 2011/12 seven provinces received training on the Blueprint on Minimum Norms and Standards for Secure Care facilities.

(vii) 1,451 Legal Aid SA practitioners received training on the Child Justice Act between April 2010 and June 2011. This is administered as an e-learning module on the Legal Aid SA intranet and all new practitioners are required to complete the course. Information on the Child Justice Act is also included in the Legal Aid SA Regional Children's Act training programme.

(viii) In the 2010/2011 and 2011/2012 financial years, a total of 563 prosecutors received training on a range of issues related to Child Justice, including social context,

criminal capacity, diversion, trials and sentencing. Several DOJCD intersectoral training sessions were held at provincial level in Western Cape, KwaZulu-Natal and Gauteng.

(b) Additional policies in place to address child labour

(i) The Children's Act makes provision for protection of children who are forced into labour. The Act defines child labour as work by a child which is exploitative, hazardous or otherwise inappropriate for a person of that age and that places at risk the child's well-being, education, physical or mental health or spiritual, moral, emotional or social development. The Child Labour Enforcement Policy has been aligned to include the requirements of the Children's Act. The latter also reinforces the provisions in the Basic Conditions of Employment Act. This Act prohibits employment of children under the age of 15 years and regulates the employment of children of 15 years or older. Any instance of child labour or a contravention of the provisions of the Basic Conditions of Employment Act 75 of 1997 must be reported to the Department of Labour. The Basic Conditions of Employment Amendment Bill (2010) proposes expanded protection for children, including those who are working legally. The amendments aim to bring the provisions of the principal Act in line with the Constitution and increase the term of imprisonment from three to six years for violations.

(ii) The Regulations on the Worst Forms of Child Labour came into effect on 15 January 2010 to protect the health and safety of child workers who are lawfully entitled to work. They prohibit categories of work which child workers may not perform, set conditions on the work that child workers may perform, and identify categories of work that constitute worst forms of child labour.

(iii) The farmworkers' sectoral determination affords special protection to farmworkers who are between 15 and 18 years of age. They may not work more than 35 hours in any week but should be paid at the same rate as those who work 45 hours a week. Monitoring of this provision is difficult, and provincial consultations identified the fact that some farm owners refuse permission to officials to enter their premises.

(c) Activities of the Film and Publication Board

The Board has run workshops on the Films and Publications Act to inform and empower critical stakeholders (including SAPS, NPA, Judges, Metro Police, South African Revenue Service Customs, magistrates as well as distributors). The Board also works closely with internet service and wireless application providers, as well as internet content providers, to enhance the co-regulation of content accessible by children. Any person who provides child-oriented services, including chat-rooms, on or through mobile cellular telephones or the Internet, must take reasonable steps to ensure that the service is not used for the purpose of the commission of any offence against children and must prominently display reasonable safety messages, create reporting mechanisms for children, and report any information indicating an offence against a child to the police.

(d) Legislation and Policies that apply in the management of children deprived of liberty

(i) The Constitution of the Republic of South Africa (Act 108, 1996): Section 28, of the Bill of Rights addresses the rights of children. Section 35 makes provision for arrested, detained and accused persons, including children.

(ii) The Child Justice Act (Act 75, 2008): The act provides a criminal justice system for children in conflict with the law. It makes provision for the minimum age of criminal capacity of children and covers processes from arrest, diversion, trial and sentencing of children.

(iii) Correctional Services Act (Act 111, 1998): The Act has specific provisions for children, such as section 7 which specifies that inmates who are children must be kept separate from adults and in accommodation appropriate to their age; section 19 stipulates that all children inmates (sentenced and unsentenced) must be provided with social work, psychological, educational, religious and recreational services.

(iv) White Paper on Corrections in South Africa (2005): The White Paper focuses on corrections and rehabilitation of offenders. Chapter 11 identifies special categories of offenders, and includes a section on children in detention.

(v) Others: The Child Care Act (Act 35, 2005), Children's Act, the South African Children's Charter, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), and United Nations Rules for the Protection of Juveniles Deprived of their Liberty govern their admission, classification, assessment, orientation, detention programmes and pre- release.

(vi) In addition to the broad legislative and policy framework, the DCS has developed several operational policies that are implemented at all detention centres, such as a youth policy, offender development and care policy, formal education policy, mental health care policy, gender policy, policy on correctional programmes, psychological services policy and social work policy.

(e) Specific measures/interventions applicable to children

(i) Remand detainee children attend court every 14 days in accordance with the Child Justice Act.

(ii) The DCS works in co-operation with the DSD and the courts to ensure that some children are detained in child and youth care facilities.

(iii) Children are kept separate from adults and according to gender. Sentenced and remand children are held in youth facilities. When children are detained in any other facility, they are detained in separate sections and cells depending on the size of the facility and the number of children.

(iv) As a result of cooperation with other Criminal Justice Partners, the number of remand detainee children dropped from an average of 1,192 in 2007 to 156 at the end of 2012.

(v) Programmes for children both sentenced and unsentenced include health care services, social work assessment and interventions, formal educational programmes, and psychological assessment and interventions when necessary. Correctional programmes are provided only to sentenced offenders.

Children deprived of liberty have protection to ensure that incidents of torture, cruel, inhuman or degrading treatment do not occur. Oversight bodies and mechanisms in place to ensure compliance include:

(a) *Parliamentary structures*: The detention institutions are subject to oversight and control by the Executive in accordance with the provisions of section 92(2) of the Constitution, which states that "members of the Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions". Subsection (3)(b) states that members of the Cabinet must "provide Parliament with full and regular reports concerning matters under their control". Since they are parliamentary structures, executive oversight includes portfolio committees.

(b) *The Judicial Inspectorate*: This is an independent office under the control of the Inspecting Judge. The Inspectorate was established on 1 June 1998 in terms of section 25 of the Correctional Services Act No. 8 of 1959 (as amended by the Correctional

Services Act no. 102 of 1997). Judge JJ Trengove was appointed by the President from the date above as the Inspecting Judge. The Judicial Inspectorate is responsible for inspections of detention facilities in order to report on the treatment of inmates in correctional centres and remand detention facilities, as well as on conditions and any corrupt or dishonest practices in correctional centres and remand detention facilities.

(c) *The South African Human Rights Commission*: The SAHRC investigates and reports on the observance of human rights; takes steps and secures appropriate redress where human rights have been violated; carries out research; and provides education on human rights.

Annex III

Summary responses to concluding observations and recommendations

Committee's recommendation	*Summary of steps taken and relevant paragraphs in report*
General measures of implementation	
10. The State should continue its law reform efforts to ensure that domestic legislation conforms to the Convention.	The legislative, judicial and administrative branches of government have taken steps to align laws governing child justice, child protection, customary law, sexual offences and child trafficking more closely with the CRC. This has been achieved through legislative reviews and amendments, the development of new laws such as the Children's Act and Child Justice Act, and judicial pronouncements on the scope, interpretation and constitutionality of laws and conduct. See paras. 2, 5, 43 for further details.
11. The State should reinforce efforts to finalise ratification of the International Covenant on Economic, Social and Cultural Rights.	The State has signed the International Covenant on Economic, Social and Cultural Rights and has made progress towards its ratification. See para. 1 for further details.
12. The State should take measures to ensure that programmes and activities of the National Plan of Action Steering Committee are established in rural areas and at community level; to promote capacity-building among community-based organisations and facilitate their inclusion in coordination, promotion and implementation of the Convention; and to improve coordination between ministries and departments responsible for implementation of the Convention.	The State has developed a revised National Plan of Action under the stewardship of the Department of Women, Children and People with Disabilities (DWCPD). Decentralised Provincial Steering Committees and municipal managers will develop and oversee the implementation and monitoring of Provincial and Local Plans of Action through an inclusive process that will involve community members and organisations in rural and urban areas. See para. 11 for further details.
13. The State should ensure that adequate resources (human and financial) are allocated to ensure the effective functioning of the South African Human Rights Commission (SAHRC); establish clear child-friendly procedures to register and address complaints and to guarantee adequate remedies for such violations; and introduce an awareness-raising campaign to facilitate the effective use by children of such a procedure.	The State has allocated additional resources to the SAHRC, which has a dedicated children's rights commissioner who receives and addresses complaints lodged directly by, and on behalf of, children. Additional resources are required to improve and publicise clear child-friendly reporting procedures. See paras. 20–21 for further details.
14. The State should review its system of data collection with a view to incorporating all the areas addressed by the Convention and covering all children up to the age of 18 years, with emphasis on those who are particularly vulnerable.	A monitoring and evaluation framework has been developed by the DWCPD to oversee the coordinated collection of disaggregated data covering all areas of the CRC contained in the NPA. See paras. 12, 79 for further details.

Committee's recommendation	*Summary of steps taken and relevant paragraphs in report*
15. The State should prioritise budgetary allocations and distributions to ensure implementation of the economic, social and cultural rights of children, to the maximum extent of available resources.	Overall, the budgets allocated to the departments responsible for the delivery of children's rights have increased at an average annual rate of 23% from 2008/9 to 2014/15. The prioritisation of children's socioeconomic rights is reflected in the fact that the budgets for education, health, and basic services and housing constitute the largest categories of State expenditure. See paras. 16–18 for further details.
16. The State should take greater steps to ensure that the provisions of the Convention are widely known and understood by adults and children in both rural and urban areas by making the Convention available in local languages; by using traditional methods of communication; and by training traditional community leaders as well as professional groups working with and for children.	The State has, in addition to publishing and distributing copies of the Convention in urban and rural areas, integrated information about the Convention and the rights contained therein through its many departmental advocacy and awareness-raising initiatives. See paras. 11, 23, 24 for further details.
2. Definition of the child	
17. The State should increase the legal minimum age of criminal capacity, increase the legal minimum age for sexual consent for both boys and girls, and ensure non-discrimination against girls in this regard.	The minimum age of sexual consent has been raised to 16 years for boys and girls. The age of criminal capacity has been increased from 7 to 10 and provides for a rebuttable presumption of criminal incapacity between the ages of 10 and 14. The Child Justice Act contemplates the review of the current age limit after five years of implementation thereof. See paras. 39, 52–54 for further details.
3. General principles	
18. The State should increase its efforts to implement the principle of non-discrimination, especially for vulnerable groups.	The State has prioritised remedying the poor living conditions and inequities experienced by the majority of children marginalised by apartheid policies. It has developed a number of education, health, child protection and social security pro-poor laws and budgets. This has resulted in a reduction in child poverty and inequality as well as an improvement in the living conditions of black, rural, and girl children and children living in poverty. Structural inequality remains a challenge, and the State is tackling this robustly and systemically through its National Development Plan: Vision 2030 which provides a blueprint for nation-wide action by all departments to address the underlying drivers of inequality. This plan is supported by policies and programmes aimed at affirmative corrective measures to reach the most vulnerable and excluded children. See paras. 56–71 for further details.
19. The State should continue promoting public awareness of the participatory rights of children and encouraging respect for the views of the child in schools, families, social institutions, and the care	The right to participate and be heard in all matters affecting children is recognised and promoted in the Children's Act and Child Justice Act as well as through the recognition of the right to mandatory

Committee's recommendation	*Summary of steps taken and relevant paragraphs in report*
and judicial systems; the State should train teachers to enable students to express their views.	legal representation in criminal matters and in certain civil matters. The realisation of these rights has been facilitated through advocacy initiatives, the implementation of child-inclusive legal review and development processes, and by embedding the principles of participation in the school curriculum and school-based clubs that facilitate the development of participatory skills. See paras. 87–89 for further details.
4. Civil rights and freedoms	
20. The State should continue its efforts to ensure that birth registration is made accessible to all parents, and should raise awareness among government officers, community leaders and parents to ensure that all children are registered at birth.	The Department of Home Affairs has taken steps to increase birth registration, including institutional innovations aimed at improved efficiency, national awareness-raising initiatives, and rural outreach campaigns in order to ensure that all parents know about and exercise their and their children's rights to birth registration and identity documents. See paras. 90–93 for further details.
21. The State should fully implement the provisions of articles 37(a) and 39 of the CRC. It should prevent police brutality, ensure facilitation of child victims' physical and psychological recovery and social reintegration, and ensure perpetrators are sanctioned.	The protective and rehabilitative framework for children within the criminal justice system, whether as child offenders or victims of abuse, has been strengthened through legal and programmatic developments, advocacy and awareness-raising, and training of relevant officials. Protection is secured through the Child Justice Act, Children's Act, Sexual Offences Act and directives to the police. These laws and directives aim to prevent, prohibit, and criminally sanction brutality, cruelty, abuse or neglect, and provide health, educational, psychosocial and other forms of support to child victims. For example, in addition to the prohibition of the use of corporal punishment and other forms of abuse in all institutional settings, the detention of children under the age of 14 years in prison is prohibited and the incarceration of those older than 14 years is limited to serious cases which are continually subject to judicial review. In most cases, the law aims to divert children away from the criminal justice system. Where they do come into contact with it, the relevant officials, including police, prosecutors and presiding officers, are advised on how to manage child offenders and child victims to ensure their rights and best interests are protected. In addition, the laws and associated programmes make provision for a range of educational, health and psychosocial services to children in conflict with the law as well as child victims of abuse, neglect or exploitation to ensure their physical and psychological recovery and reintegration.

Committee's recommendation	*Summary of steps taken and relevant paragraphs in report*
	See paras. 124–131, 172–181, 321–326 for further details.
5. Family environment and alternative care	
22. The State should provide parenting support, guidance and training. It should reduce and prevent the increasing number of child-headed households, and provide support to existing child-headed families. It should further undertake a study on the situation of single-parent, polygamous and child-headed families with a view to assessing the impact on children.	The State has taken a number of measures to provide support to parents, including research to determine the primary challenges faced by them and the development of policies, laws, programmes and supportive institutional arrangements to provide parental and family support to ensure the well-being of children. Whilst the number of child-headed households is relatively small, the State has responded to their highly vulnerable circumstances by legislating special measures within the child protection system for their identification and provision of a holistic package of support at a community- and household level. See paras. 132–137 for further details.
23. The State should ensure compliance with maintenance orders and the recovery of maintenance for the child.	The laws of South Africa (such as the Maintenance and Children's Acts) recognise the duty of parents and others to support their children, and allow for the recovery of maintenance in this regard. The implementation of the laws is supported by special programmes such as Operation Isondlo and Information Support Services for Maintenance Investigators. See paras. 146–149 for further details.
24. The State should expand its Child Support Grant programme to include children up to the age of 18 years and ensure the continuation of support programmes for economically disadvantaged families.	The Child Support Grant has been extended to reach all children living in poverty up to the age of 18 years. This development is one of a number designed to reach more families living in poverty, including upward revision of the means test, which is adjusted annually to take into account inflation. See paras. 244–245 for further details.
25. The State should develop additional programmes to facilitate alternative care, provide additional training for social and welfare workers, and establish independent complaint and monitoring mechanisms for alternative care institutions; increase its efforts in providing support, including training for parents, to discourage the abandonment of children; and ensure adequate periodic review of placements in the foster care programme.	The Children's Act provides a comprehensive regulatory framework for the provision of a range of quality alternative care options, including adoption, foster care, child and youth care centres and temporary safe care. The regulatory framework and complementary programmes ensure the provision of training and adherence to minimum standards of care which are secured through registration and quality assurance processes. Alternative care is a measure of last resort. The laws make provision for a number of prevention and early intervention measures to provide support to families to prevent the removal of children. Where they are placed in foster care, the law requires that the placements be reviewed every two years.

Committee's recommendation	*Summary of steps taken and relevant paragraphs in report*
	See paras. 150, 151, 155, 156, 162 for further details.
26. The State should establish proper monitoring procedures for domestic and intercountry adoptions and introduce adequate measures to prevent the abuse of the practice of traditional informal adoptions. It should take all necessary measures to ensure effective regulation of intercountry adoptions and to reinforce its efforts to finalise its ratification of the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption.	South Africa acceded to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoptions in 2003. It has also strengthened the legislative framework for both domestic and intercountry adoptions. The Children's Act requires accreditation of those involved in adoptions, and establishes a register on Adoptable Children and Prospective Adoptive Parents for matching and placement purposes. Informal care arrangements are common in South Africa. Some of these children (the number is unknown) are adopted through customary practices which are not subject to regulation and official monitoring. However, many of these arrangements are recognised as foster care placements and subject to the norms, standards and review processes contained in the Children's Act. See paras. 165–166 for further details.
27. The State should undertake studies on domestic violence, ill-treatment and abuse to understand the scope and nature of these practices, and formalise a comprehensive strategy to prevent and combat domestic violence, ill-treatment and abuse. It should adopt measures and policies to contribute to changing attitudes. Cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, should be properly investigated within a child-friendly judicial procedure and sanctions applied to perpetrators, with due regard given to protecting the right to privacy of the child. Measures should also be taken to ensure the provision of support services to children in legal proceedings; the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention; and the prevention of criminalisation and stigmatisation of victims.	The State engages in studies through institutions such as the Medical Research Council on the scope and nature of violence and abuse against children. It has responded to the high rates of violence and abuse through the development of a comprehensive legal and programmatic framework which requires, inter alia, mandatory reporting of abuse; collaboration and cooperation across the sectors responsible for the care and protection of vulnerable children and victims to provide a package of legal, health, psychosocial and other services to victims; an expanded range of sexual offences and minimum sentences (in terms of the Sexual Offences Act); and protection against domestic abuse in terms of the Domestic Violence Act. Courts are required to adopt child-friendly procedures which secure the child's right to be heard, and prevent secondary victimisation, and protect the child's right to privacy. See paras. 107, 172–179, 328–329 for further details.
28. The State should prohibit by law corporal punishment in care institutions and in the family, raise awareness on the negative effects of corporal punishment, and change cultural attitudes to ensure that discipline is administered in a manner consistent with the child's dignity and in conformity with the Convention.	Corporal punishment has been abolished in all areas of public life, including all alternative and partial care settings. Moreover, positive discipline is promoted. Implementation remains a challenge, especially in schools, and this is being addressed through ongoing advocacy and training. Corporal punishment is not prohibited in homes, but this will be reviewed in the current revision of the Children's Act.

Committee's recommendation	*Summary of steps taken and relevant paragraphs in report*
	See paras. 117–123 for further details.
6. Basic health and welfare	
29. The State should allocate appropriate resources and develop comprehensive policies and programmes to improve the health situation of children, particularly in rural areas. It should especially facilitate greater access to primary health services; reduce the incidence of maternal, child and infant mortality; prevent and combat malnutrition, especially in vulnerable and disadvantaged groups of children; and increase access to safe drinking water and sanitation. The State should continue its technical co-operation with respect to the IMIC initiative and, where necessary, pursue additional avenues for co-operation and assistance for child health improvement with, inter alia, WHO and UNICEF.	South Africa has developed and implemented a number of policies and programmes designed specifically to improve the heath situation of children, especially in rural areas. These include programmes and systems targeting maternal, infant and child health, the prevention and treatment of HIV and AIDS, primary health care reengineering with a focus on the provision of quality community-based health care services, and increased access to water and sanitation. These measures have started yielding results in improved morbidity and mortality rates; however, inequities in access and health outcomes remain a challenge. These are being addressed through ongoing health-system and legal reforms. See paras. 188–197, 200, 201, 236 for further details.
30. The State should facilitate the implementation of sustainable development programmes to prevent environmental degradation, especially as regards air pollution.	The environmental health of children is secured through a combination of water and sanitation policies which prioritise infrastructure development and quality control, especially in marginalised communities. Climate change, environmental pollution and Acid Mine Drainage are recognised as risks and addressed through a variety of policies, laws and programmes such as the National Climate Change Response Strategy. See paras. 236–242 for further details.
31. The State should ensure that legislation is fully implemented and enforced, particularly as regards the use of tobacco products; it should reinforce adolescent health policies, particularly with respect to accidents, suicide, violence and substance abuse, and should undertake a study to assess the situation of children with mental health concerns and introduce programmes to guarantee adequate care and protection for them. Additionally, the State party should allocate adequate human and financial resources, develop youth-friendly counselling, care and rehabilitation facilities for adolescents that are accessible without parental consent where this is in the best interests of the child. Training programmes for youth on reproductive health, HIV/AIDS and STDs should be strengthened and based not only on gaining knowledge but also on acquiring competencies and life skills that are essential to the development of youth.	The enabling environment regulating adolescent and youth health has been considerably strengthened to provide prevention, treatment, care and support for key risks experienced by this age group. Adolescent and youth mental health is governed by a Child and Adolescent Mental Health Policy and implementation plan. Collaboration across multiple sectors has been fostered through a comprehensive adolescent and youth-care policy. In terms of the overarching framework, adolescent and youth-friendly clinics have been established; youth are identified as a highly vulnerable key population in the National Strategic Plan for HIV, STIs (which calls for the development of appropriate special measures); teen pregnancies are addressed through prevention and support measures; and the sale and use of tobacco products by children are outlawed. In addition, measures have been taken to protect children from substance abuse, including steps to address the supply and demand of illicit substances, promote prevention through advocacy and education, and provide rehabilitative treatment programmes.

Committee's recommendation	*Summary of steps taken and relevant paragraphs in report*
	See paras. 49, 205, 217–218, 226–232.
32. The State should reinforce its early identification programmes to prevent disabilities, establish special education programmes for children with disabilities, and further encourage their inclusion in society. Technical co-operation should be sought from UNICEF and WHO for the training of professional staff working with and for children with disabilities.	A number of policies, laws, programmes and institutional arrangements have been developed to ensure the realisation of the rights of children with disabilities. Notably, the DWCPD was established with the mandate to mainstream realisation of their rights at all levels of government. On the education front, the Department of Basic Education has implemented a number of interventions to improve access for children with disabilities, including: (a) a programme of action for the identification of learners with disabilities and other learning barriers, governed by Education White Paper 6: Special Needs Education – Building an Inclusive Education and Training System (2001) and the National Strategy on Screening, Identification, Assessment and Support (2008); (b) the provision of disability-friendly infrastructure; (c) the translation of core workbooks into braille and adoption of Sign Language as an official language within the curriculum. The Children's Act requires that programmes for children with disabilities be prioritised in terms of funding and timing of implementation. See paras. 183–187, 273 for further details.
33. The State should take effective measures, including training for practitioners and awareness-raising, to ensure the health of boys and protect against unsafe medical conditions during the practice of male circumcision, and undertake a study on virginity testing to assess its physical and psychological impact on girls. It should further introduce sensitization and awareness-raising programmes for practitioners and the general public to change harmful traditional attitudes and practices, including virginity testing and FGM.	The State has taken steps to prevent harmful customary practices, including training and awareness-raising among practitioners performing male circumcisions, and advocacy promoting the performance of procedures by qualified medical practitioners in clinics and hospitals. It has further outlawed harmful practices such as female genital mutilation and introduced age and other limits in relation to virginity testing and male circumcision. See paras. 219–225 for further details.
7. Education, leisure and cultural activities	
34. The State should continue to promote and facilitate school attendance, particularly among previously disadvantaged children, girls and children from economically disadvantaged families; ensure primary education is available free to all; and take additional measures to ensure non-discrimination within the school environment. Effective measures should be taken to improve the quality of education and provide access for all children within the State. In this connection, it should cooperate with UNICEF and UNESCO. It should further encourage children to stay in school, at least during the period of compulsory education, and ensure that children, especially those in black communities, enjoy the right to leisure, recreation and cultural activities.	School attendance, especially among previously disadvantaged children, children living in poverty, and girls, has improved as a result of measures designed to improve monitoring and remediation of poor attendance and to address the underlying drivers of exclusion, including the cost of schooling, school safety, inadequate infrastructure and teen pregnancies. The quality of education has been improved through a complex array of interventions, including improved access to early childhood education, curriculum reform, improved learner assessments, and improved teacher qualifications. The right to leisure and recreation has been promoted through the Integrated School Sport

Committee's recommendation	*Summary of steps taken and relevant paragraphs in report*
	Framework (2011), which aims to improve access to, and the delivery of, school sport for all learners based on the principles of equity and access. See paras. 268–277, 287 for further details.
8. Special protection measures	
35. The State should develop a legislative and administrative framework to guarantee and facilitate family reunification for refugee and asylum-seeking, and implement policies and programmes to guarantee adequate access to all social services for refugee and asylum-seeking children. The State should reinforce its efforts to finalise its adoption of the 1951 Convention relating to the Status of Refugees and the 1967 Protocol.	South Africa has signed the Convention relating to the Status of Refugees and the Organization of African Unity Convention governing the specific aspects of refugee problems in Africa and incorporated its international obligations in the South African Refugees Act (1998) and Immigration Act (2002). Under these Acts, refugee children are protected from refoulement, discrimination and illegal detention; in addition, they enjoy full right of access to basic health care, primary education services, social security, as well as being protected by prohibitions against child labour. The law provides that immigration control should follow the highest applicable standards of human rights protection. To this effect the Refugee Amendment Act (2011) and Immigration Amendment Act (2011) have been promulgated. Once children enter the country, the DHA has standard procedures for dealing with unaccompanied asylum-seeking children at Refugee Reception Offices, including assistance with enabling documents. See paras. 288–291 for further details.
36. The State should introduce new, and reinforce existing, programmes to facilitate the rehabilitation and reintegration of children affected by armed conflict.	In alignment with the OPAC, the Defence Act changes the minimum age of recruitment into the National Defence Force from 17 to 18 and provides extensive rehabilitation and reintegration for all children affected by violence, which would include armed conflict through the current child protection framework. See para. 292 for further details.
37. The State should improve its monitoring mechanisms to ensure the enforcement of labour laws and protect children from economic exploitation, and should reinforce its efforts to ratify the Worst Forms of Child Labour Convention, 1999 (No. 182) of the ILO.	The State ratified the Worst Forms of Child Labour Convention in 2000 and signed the ILO's Roadmap for Achieving the Elimination of the Worst Forms of Child Labour by 2016 in 2010. It routinely collects disaggregated child labour data through national surveys such as the Survey of Activities of Young People. See paras. 295–300 for further details.
38. The State should take measures, including educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances and to prevent the use of children in the illicit production and trafficking of such substances. The State should also develop a national drug control plan with the guidance of the	A number of measures have been taken to protect children from substance abuse, including measures to address the supply and demand of illicit substances, prevention through advocacy and education, and the provision of rehabilitative treatment programmes.

Committee's recommendation	*Summary of steps taken and relevant paragraphs in report*
United Nations Drug Control Programme, and should support rehabilitation programmes dealing with child victims of drug and substance abuse.	See paras. 226–232 for further details.
39. The State should undertake studies with a view to designing and implementing appropriate policies and measures, including care and rehabilitation, to prevent and combat the sexual exploitation of children.	The State has taken legislative, training, and advocacy steps to prevent and combat the sexual exploitation of children, and to provide them with care and rehabilitation services. The Sexual Offences Act and Children's Act prohibit the sexual exploitation of children and make provision for care and rehabilitative services to victims thereof. The Film and Publications Act prohibits child pornography. These laws are supported by training officials to identify and provide support to victims of sexual exploitation; extended working partnerships seek to prevent exploitation in high-risk areas such as tourism and cyber-crime. See paras. 40, 294, 303–309 for further details.
40. The State should take measures to strengthen law enforcement and intensify efforts to raise awareness in communities about the sale, trafficking and abduction of children. It should establish bilateral agreements with neighbouring countries to prevent the sale, trafficking and abduction of children, and to facilitate their protection and safe return to their families.	The prohibition of trafficking and provision of services and support to victims are addressed through the Sexual Offences Act and Children's Act. The fracturing of the governing framework between two laws has left some gaps which are to be addressed through the Prevention and Combating of Trafficking in Persons Bill (2010). These laws are supported by a number of programmes and institutional structures, such as the Inter-Sectoral Task Team on Human Trafficking. See paras. 310–314 for further details.
41. The State should undertake all appropriate measures to ensure that the rights of children belonging to minority groups, including the Khoi-Khoi and San, are guaranteed, particularly those rights concerning culture, religion, language and access to information.	Measures that have been taken to prevent discrimination against minority groups and ensure their participatory and cultural-linguistic rights include the protection of the right to be taught in one's language of choice, the right of school governing bodies to choose the language of instruction in schools, the rights of children to express their cultural identity in school settings, and the accompanying limitations on the extent to which school codes of conduct may curtail these rights. See paras. 61, 94, 280, 317 for further details
42. The State should take steps to implement a juvenile justice system in conformity with the Convention and other United Nations standards in this field; use deprivation of liberty only as a measure of last resort and for the shortest possible period of time; protect the rights of children deprived of their liberty, including the right to privacy; ensure that children remain in contact with their families while in the juvenile justice system; introduce training programmes on relevant international standards for all professionals	The Child Justice Act revolutionised South Africa's criminal justice system so as to render it appropriate to the needs, protection, and rights of children. Inter alia, it increases the age of criminal liability to 10 years, creates a rebuttable presumption of criminal incapacity for children under the age of 14 years, and permits the deprivation of liberty as a measure of last resort only. It protects the rights of children deprived of their liberty by requiring appropriate conduct of those involved in the system; by aiming to divert

Committee's recommendation	*Summary of steps taken and relevant paragraphs in report*
involved with the system of juvenile justice; and consider seeking international technical assistance.	children away from the criminal justice system; by institutionalizing child-friendly court procedures; and by requiring training of all involved in the system. See paras. 318–329 for further details.
9. Dissemination of the reports of the Committee	
43. The State should ensure that the initial State report, concluding observations and written replies presented by it be published and made widely available to the public to generate debate and awareness of the Convention and its implementation and monitoring within the Government and the general public, including NGOs.	The DWCPD has published copies of the initial State report and concluding observations, and has, with the support of civil society, distributed it amongst governmental departments and NGOs. It further conducted consultations on, and raised awareness of, the CRC, the ACRWC and the NPAC with national, provincial and local-level stakeholders in rural as well as urban areas. See para. 23 for further details.

Annex IV

Key legal and policy developments since 1998

Please note: This list includes key developments only and is not exhaustive.

- Action Plan to 2014: Towards the Realisation of Schooling 2025, 2011
- Admission Policy for Ordinary Public Schools, 1998
- Alteration of Sex Description and Sex Status Act No. 49 of 2003
- Amended National Norms and Standards for School Funding, 2006
- Amended National Norms and Standards for School Funding, 2011
- Births and Deaths Registration Act No. 51 of 1992 (as amended)
- Child Justice Act No. 75 of 2008
- Child Labour programme of Action for South Africa 2013–2016 (draft)
- Child Labour Programme of Action for South Africa: Phase 2008–2012
- Child Protection Strategic Plan 2010/11–2014/15
- Child Protection Strategic Plan 2010–2014 (draft)
- Children's Act No. 38 of 2005 (as amended)
- Choice of Termination of Pregnancy Act No. 92 of 1996 (as amended)
- Consumer Protection Act No. 68 of 2008
- Correctional Services Act No. 11 of 1998
- Criminal Law (Sexual Offences and Related Matters) Amendment Act No. 32 of 2007
- Criminal Procedure Act No. 51 of 1977 (as amended)
- Curriculum and Assessment Policy Statements, 2011
- Defence Act No. 42 of 2002
- Department of Basic Education Delivery Agreement for Outcome 1: Improved quality of basic education, 2010
- Disability Rights Charter, 2000
- Domestic Violence Act No. 116 of 1998
- ECD Infrastructure Plan, 2012 (draft)
- Education Laws Amendment Act No. 31 of 2007
- Education White Paper 5 on Early Childhood Education, 2001
- Education White Paper 6: Special needs education – building an inclusive education and training system, 2001
- Employment Equity Act No. 55 of 1998
- Employment of Educators Act No. 76 of 1998 (as amended)
- Firearms Control Act No. 60 of 2000

- Free Health Care for All Persons with Disabilities Policy, 2003
- Free Primary Health Care for All Policy, 2006
- Further Education and Training Colleges Amendment Act No. 3 of 2012
- General and Further Education and Training Quality Assurance Act No. 58 of 2001
- Green Paper for Post-School Education and Training, 2011
- Guidelines on e-safety in schools, 2010 (draft)
- Guidelines Relating to Planning for Public School Infrastructure, 2012
- Immigration Act No. 13 of 2002
- Integrated National Literacy and Numeracy Strategy, 2012
- Integrated Strategic Planning Framework for Teacher Education and Development in South Africa 2011–2025
- Integrated Strategy on HIV and AIDS 2012–2016
- Language Policy for Higher Education, 2002
- Learner Attainment Improvement Strategy, 2012
- Maintenance Act No. 99 of 1998
- Medical Schemes Act No. 131 of 1998
- Mental Health Care Act No. 17 of 2002
- National Child Labour Programme of Action for South Africa: Phase 2: 2008–2012
- National Climate Change Response White Paper, 2011
- National Drug Master Plan 2006–2011
- National Early Learning and Development Standards for Children Birth to Four Years (NELDS), 2009
- National Environmental Management Act No. 107 of 1998
- National Environmental Management: Air Quality Act No. 39 of 2004
- National Guidelines for School Library and Information Services, 2012
- National Guidelines on School Uniforms, 2006
- National Guidelines on Statutory Services to Child Headed Households, April 2010
- National Health Act No. 61 of 2003
- National HIV/AIDS and STI Strategic Plan for South Africa, 2012–2016
- National Norms and Standards for Grade R Funding, 2008
- National Norms and Standards for Public School Funding, 1998
- National Plan of Action 2012–2017 (draft)
- National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment, 2010
- National Policy Framework for Child Justice Act, 2010
- National Policy Framework for Management of Sexual Offence matters, January 2012 (draft)
- National Policy Framework for the Children's Act, 2009

- National Policy on HIV and AIDS for Learners, Educators in Public Schools, and Students in Further Education and Training Institutions, 1999
- National Policy on Learner Attendance, 2010
- National Policy on Religion and Education, 2003
- National Policy on the Management of Drug Abuse by Learners in Public and Independent Schools and Further Education and Training Institutions, 2002
- National Policy Pertaining to the Programme and Promotion Requirements of the National Curriculum Statement Grades R–12, 2011
- National Protocol for Assessment Grades R–12, 2011
- National School Health Policy, 2003
- National Strategic Plan for HIV, STIs and TB, 2012–2016
- National Strategic Plan for HIV/AIDS and STI, 2007–2011
- National Strategy for Learner Attainment Framework for Grades R to 12, 2012
- National Strategy for Mathematics, Science and Technology Education, 2012
- National Strategy on Screening, Identification, Assessment and Support, 2008
- National Youth Development Agency Act No. 54 of 2008
- Norms, standards and practice guidelines for the Children's Act, May 2010
- Patient's Rights Charter, 2007
- Policy framework for non-communicable chronic conditions in children, 2002
- Policy Guidelines for Child and Adolescent Mental Health, 2004
- Policy Guidelines for the Management and Prevention of Genetic Disorders, Birth Defects and Disabilities, 2001
- Policy Guidelines on Youth and Adolescent Health, 2002
- Policy on Education Districts, 2012 (draft)
- Policy on the Minimum Requirements for Teacher Education Qualifications, 2011
- Prevention and Combating of Trafficking in Persons Bill, B 7 – 2010
- Prevention of and Treatment for Substance Abuse Act No. 70 of 2008
- Prevention of Family Violence Act No. 133 of 1993
- Primary Health Care Package for South Africa, 2002
- Probation Services Act No. 116 of 1991 (as amended)
- Promotion of Access to Information Act No. 2 of 2000
- Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000
- Regulations relating to the performance of community service, 2005
- Regulations to Prohibit Initiation Practices in Schools, 2002
- Regulations: Safety measures at public schools, 2001
- Revised Exemption of Parents form the Payment of School Fees Regulations, 2006
- School Sport Policy, 2011 (draft)
- Social Assistance Act No. 13 of 2004

- Social Crime Prevention Strategy, 2010
- South African Council of Educators Act No. 31 of 2000
- South African Police Services National Instruction 2 /2010: Children in Conflict with the Law
- South African Refugees Act No. 130 of 1998
- Standard Treatment Guidelines (STGs) and Essential Drugs List (EDL) (second edition 2006)
- Standardization of Provision of Assistive Devices Policy, 2003
- Tobacco Products Control Amendment Act No. 63 of 2008

Additional selected references

In line with prescribed national reporting practice all references are identified by affiliated institutions

- Department of Basic Education Task Team for the Review of the Implementation of the National Curriculum Statement. (2009). Report of the Task Team for the Review of the Implementation of the National Curriculum Statement. Department of Basic Education. Pretoria
- Department of Basic Education. (2010a). National School Nutrition Programme Annual Report 2009/10. Pretoria
- Department of Basic Education. (2010b). Report on the Annual School Survey. Pretoria
- Department of Basic Education. (2010c). The Status of the Language of Learning and Teaching in South African Public Schools. Pretoria
- Department of Basic Education. (June 2011). Report on Dropout and Learner Retention Strategy to Portfolio Committee on Education. Pretoria
- Department of Basic Education Annual Report 2010/11. (2011a). Pretoria
- Department of Basic Education. (2011b). Strategic Plan 2011–2014. Pretoria: DBE. Pretoria
- Department of Basic Education. (2011c). Macro Indicator Trends in Schooling: Summary Report 2011. Pretoria
- Department of Basic Education. (2011d). NEIMS (National Education Infrastructure Management System) Report May 2011. Pretoria
- Department of Basic Education. (2011e). Report on the 2009 General Household Report: Focus on schooling. Pretoria
- Department of Basic Education. (2011f). Report on the Annual National Assessments of 2011. Pretoria
- Department of Basic Education. (2012). Education Statistics in South Africa 2010. Pretoria
- Department of Basic Education. (2012a). Analysis of 2010 General Household Survey Documented in the Department of Basic Education's Periodic report to the Department of Women, Children and People with Disabilities. Pretoria

- Department of Basic Education, Department of Social Development & UNICEF. (2011). Tracking public expenditure and assessing service quality in early childhood development in South Africa. Pretoria
- Department of Health. (2011). The national antenatal sentinel HIV and syphillis prevalence survey, South Africa, 2010. Pretoria
- Department of Health. (2011a). Annual Report 2010/11. Pretoria
- Department of Health. (2011b). Report of the Health Data Advisory and Coordination Committee. Pretoria
- Department of Health. (2012a). Strategic Plan for MNCWH and Nutrition 2012–2016. Pretoria
- Department of Health. (2012b). National HIV/AIDS and STI Strategic Plan 2007–2011. Pretoria
- Department of Health. (2012c). CARMA Report. Pretoria
- Department of Health. (2007). National HIV/AIDS and STI Strategic Plan 2007–2011. Pretoria
- Department of Higher Education and Training. (2011). Annual Report 2010/11. Pretoria
- Department of Justice and Constitutional Development. Interim Report on Child Justice 2011/2012. (2012). Pretoria
- Department of Social Development & UNICEF. (2008). A review of children's access to employment-based contributory social insurance benefits. Pretoria
- Department of Social Development, SASSA &UNICEF. (2012). South African Child Support Grant Impact Assessment. Pretoria
- Department of Women, Children and People with Disabilities & UNICEF. (2011). Exploring the Impact of Climate Change on Children in South Africa. Pretoria
- Department of Women, Children and People with Disabilities. (2011). Mid-term review. Pretoria
- Department of Women, Children and People with Disabilities. (February 2012). Draft National Plan of Action for Children 2012 -2017. Pretoria
- Health Systems Trust. (2012). District Health Barometer 2010/11. Durban
- Medical Research Council: Mathews S, Abrahams N, Jewkes R, Martin LJ & Lombard C. Child Homicide Patterns in South Africa: Is there a link to child abuse? Research Brief. South African Medical Research Council. August 2012.
- National Planning Commission. (2011). Diagnostic Overview. Pretoria
- Parliament of South Africa Research Unit. (March 2012). Budget Vote analysis – Vote 15: Basic Education. http://www.ecdlc.org.za/images/stories/downloads/Education_Budget_Vote_2012.pdf
- SALRC. (1997). Issue Paper 9: Juvenile Justice. Pretoria
- SALRC. (1998). The Review of the Child Care Act. First Issue Paper. Pretoria
- SALRC. (2000). Discussion Paper 93. Customary Law. Pretoria
- SALRC. (2002). Discussion Paper: Sexual Offences. Process and Procedure. Pretoria
- SALRC. (2002). Review of the Child Care Act. Pretoria

- SALRC. (2004). Issue Paper 25: Trafficking in Persons. Pretoria
- SALRC. (2008). Report on Trafficking in Persons. Pretoria
- SALRC. (2012). Discussion Paper 130. Legislation Administered by the Department of Justice and Constitutional Development (Family Law and Marriage). Pretoria
- South African Medical Research Council (SAMRC), Centre for Disease Control and Prevention. (2011). Saving Children 2009: Five Years of Data. A sixth survey of child healthcare in South Africa. Pretoria
- South African Medical Research Council. DOH and PEPFAR/USCDCP. (2012). Impact of the National Prevention of Mother-to-Child Transmission of HIV (PMTCT) Program on Perinatal Mother-to-Child Transmission of HIV (MTCT) Measured at Six Weeks Postpartum, South Africa (SA): Results of the First Year of Implementation of the 2010 PMTCT Guidelines recommended by the World Health Organization (WHO). Presented at the XIX International AIDS Conference, Washington DC, July 2012.
- South African Medical Research Council (SAMRC). (2012a). Every Eight Hours: Intimate femicide in South Africa 10 years later! Pretoria
- South African Police Service (SAPS). (2011). Annual Report 2010/2011 crime statistics. Pretoria
- South African Human Rights Commission. (2011). Annual Report 2010/11. Johannesburg
- Statistics South Africa. (2009). Mortality and causes of death in South Africa 2007: findings from death notification. Pretoria
- Statistics South Africa. (2010). Survey of Activities of Young People. Pretoria
- Statistics South Africa. (2011). Social profile of vulnerable groups in South Africa 2002-2010. Pretoria
- Statistics South Africa. (2012). General Household Survey 2011. Pretoria
- The Presidency. (2009). Situational analysis of children in South Africa. Pretoria
- The Presidency, Department of Performance, Monitoring and Evaluation. (2012). Midterm review of the Priorities of Government. Pretoria
- The Presidency. Department of Performance, Monitoring and Evaluation. (2012). Diagnostic Review of Early Childhood Development (RSA). Pretoria
- UN Human Rights Council Report. (2012). South Africa. Pretoria
- University of Cape Town, Children's Institute. (2011). Children's rights to participate in social dialogue in South African Child Gauge 2010/2011. Pretoria
- University of Cape Town, National Income Dynamics Study (NIDS). (2012). NIDS Wave 2: Overview 2012. Cape Town
- University of the Western Cape. (2012). Report on Children in Prison in South Africa. Community Law Centre. Cape Town